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OBSERVATIONS

Upon the DISTEMPER of the  
HORN'D CATTLE;

Principally Respecting the  
FEEDING COUNTRIES.

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— *alitur Vitium, vivitque tegendo.*  
VIRG. Georg. Lib. 3.

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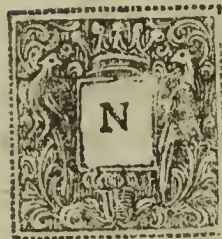




# OBSERVATIONS

Upon the DISTEMPER of the

## Horn'd Cattle, &c.



Notwithstanding many have already treated upon *the Distemper of the Horn'd Cattle*, and given their Opinions both of the Causes of its Continuance, and of the probable means to be used for its Extirpation, yet as it still spreads, and even seems to threaten a total Destruction of the Species in this Kingdom; and as every Individual, from the highest to the lowest, is more or less interested in it, and affected by it, a Person who communicates his Thoughts on the Subject, is so far from being impertinently officious, that he seems to be in some measure a Benefactor to the Public: Forasmuch as Hints and Intimations from the Unlearned, as well as the more understanding part of the World, have often been improved into Use by Men of Abilities and Authority.

In the present Case, above all others, the more is written, the better; as it is hardly possible for any one seriously to consider it, without thinking to the advantage of the Public, there being such a variety of Circumstances and Considerations to be taken in, which arise from the different Countries, the different appearances of the Distemper, and the many Arts and Contrivances made use of by unlawful Dealers, to evade the Laws and spread the Contagion.



*Local Variety* indeed seems to have occasioned many of the Disputes that have arisen upon this Subject; and therefore it might be wished every one who prints his Thoughts upon it, would let us understand what County he is most inclined to favour; for whatever People may say about disinterestedness, it is very hard, if not wholly impossible, to get rid of a *local Bias*.

*Nescio quâ, natale Solum, dulcèdine Cunctos  
Ducit———* Ovid.

But besides that particular regard we have, and indeed owe, to our own Country, it is probable some Measures may be highly proper to be pursued in some, which in other Countries are not so absolutely necessary; and that there are Proceedings very destructive in one part of the Kingdom, that may have their Use in another. I heartily wish Regulations and Orders could be thought of, that would not bear hard on any one, but contribute to the relief and safety of every County, but I must acknowledge that I am more especially affected by the melancholy Prospects in a part of the Kingdom, boasting of that rich and good Land, which, according to the Sense of the Legislature, *cannot so well be otherwise employed and made use of, as in the feeding and fattening of Cattle*; (15. Car. II. c. 7.) having the advantage also of an easy distance from the Metropolis, and of consequence, of a good Market for Butter, as well as Beef; which Advantages however are fully balanced by the high Rents, Taxes, and a complete Ignorance in Manufactures, which are no less distinguishing Characteristics of this Country.

Whether the Reformations wanted here, will suit the breeding Countries, I do not pretend to say. Nay indeed, to dictate what is proper for our own, is very far beyond my Intention, which is only to give such Hints as have occurred in this melancholy Scene, for others of greater Ability to digest; and to awaken the Attention of those that will be the more immediate Sufferers, *viz.* the Cow-keepers of all Denominations, and Gentlemen of landed Estates.

As it is very certain the Ruin of the Cow-keepers will only lead the Way, and the Distresses of Landlords must very soon follow, it may seem strange to speak of rousing the attention of Persons so immediately and intimately concerned; as if the former had not already asked themselves, what they can do when they have repeatedly lost their Stocks of Cattle, and are become unable to renew them? And as if the latter had not considered of what small use their Estates will be to them, when they are reduced to the alternative of letting them to be *ploughed* and *mowed*, when by far too much hath been ploughed and mowed already; or of making little of them *in their own Hands*, as, upon Inspection, I doubt not, many will find they do, of what they occupy already: And yet, if some of the more considerate of both Ranks have employed their Thoughts in this manner, a far greater number act as if they never thought at all: Else whence this Carelessness amongst the Cow-keepers, Dairy-men, and Farmers, in buying their Cattle without seeing, or even asking to see, Certificates of Health; in dealing with *suspected Herds*, and in unhealthy Countries; in driving near infected Places; and when the Distemper appears amongst their own Cattle, especially if with a few favorable Symptoms, in almost disregarding it, or vainly hoping it will go off lightly, or spread no further, 'till a shocking Carnage convinces them of their Errors?

As to Gentlemen, (of whom I speak not now as Executors of the Laws, but as Owners of Estates) whence this Remissness in suffering their Tenants to trifle thus, not only with their own, but their Landlords Property; in making no kind of Provisions against probable Causes of the Distemper; in short, in taking no Care at all about it? We see Advertisement upon Advertisement, and Subscriptions (1) *without End*, for Prosecutions of Poachers. The  
utmost

(1.) These Subscriptions may be said to be *without End* in more Senses than one; it being a doubt whether they diminish or *increase* the Number of Poachers in the Kingdom: So far is certain, they have raised the Price of Game, and thereby made it a better Trade; and ranked the Offenders with the Yeomen and substantial Farmers, and thereby made it a more creditable Profession than it was formerly.



utmost care is taken to keep the Farmers from abridging the *Pleasures* of the Landlords. No Pains are spared, nor Associations neglected, to preserve a few *Hares* and *Partridges*, whilst Herds of profitable Cattle upon which the Welfare of their Tenants, and of themselves and their Families, so eminently depends, are not only neglected, but even hazarded, for the sake of a Day's Sport after a Pack (2) of Hounds. A Method of preserving and multiplying the Game so naturally occurs here that I cannot avoid recommending to the Consideration of the Owners of it, whether it would not be worth their while to give these poor Animals a Jubilee during the Visitation of the other Inhabitants of the Field, which might perhaps contribute to the preservation of both.

But now may it not be asked, Can so great a Calamity have befallen the Nation, and is there so general a Carelessness and Inattention throughout the Kingdom, and hath not the Legislature interfered therein? Or are we at last experimentally taught that *there is no help in Princes!* That the Legislature hath not been Negligent, the repeated Acts of Parliament, and Orders of Council proclaimed in our Churches, for these five Years, abundantly testify; and that the Evil is not ceased is too apparent; from whence it is plain, that either the Laws have not been duly observed, or else are not effectual in themselves.

It is not my Intent to enter into a regular Discussion of these (3) Questions; and indeed as to the First of them  
(tho'

(2) Tho' the Author hath only animadverted upon Hunters, he is not insensible that as much or more mischief is done by those solitary Sportsmen called POT-HUNTERS, who because they have 100 *l.* a Year think they have a Right, in order to save a Joint of Meat, to beat with Spaniels and Lurchers over every Field they please. And as their Dogs, which are apt to roll in all kinds of Carrion and Nastiness, do without doubt often spread the Contagion; and as they themselves do seldom benefit the Country in any respect whatever (which Hunters always *do* by the Consumption of Hay, Corn, and all other Provisions) they too literally deserve the Appellation, generally bestow'd on them, of being the *Pest* of the Neighbourhood.

(3) These Considerations being chiefly extracted from some private Letters which the Author (at the Time of writing them) had  
not

(tho' I purpose to say something to both) most People will think an Enquiry into it quite unnecessary, for instead of *all* the Laws (made in this Case) being observed, it is notorious to Men of every Rank and Degree, that they are *all broken* every Day in the Year. Nay indeed amongst some People (and that not a small Number) a Notion has prevailed that *no* (4) *Laws are now subsisting in this Case*: And well may such an Error be received by the Ignorant; as well as another ridiculous Doctrine, *That* (5) *the Legislature have no Authority to make Laws for killing infected Beasts*, when they see their Betters, nay some of the very Makers of those Laws, conniving at (at least) if not abetting, and encouraging Proceedings directly opposite to the Intent of them. It is indeed too true and melancholy an Observation, that there is at present such a total disregard of all Laws (I may say Divine as well as Human) as forebodes the worst Consequences. A (6) most excellent and seasonable Writer of the present Age, intimates that the general Course of Example runs downwards; and tho' he says *Men* (7) *may become ashamed of offending against those Laws with Impunity, by which they see their Inferiors brought to Punishment*; it is not, I conceive, contrary to his meaning, that it is *more natural* for Men to *dare* to offend, when they see their *Superiors* do it with *Impunity*; and I believe we may venture to conclude this Licentiousness takes its rise pretty high in the Stream, and in its natural Course pollutes the Current downwards. The Magistrate before-mentioned, who has a Way of making the driest Subjects agreeable, and hath already brought *Law* to be read in the politest Assemblies (not before it was not the least Intention to publish; the Reader is desired not to expect a formal Disquisition, but rather loose Essays on this affecting Subject, connected in the Manner of a continued Discourse, only for the sake of avoiding Repetitions and foreign Matter, of which he would have had too great reason to complain, if they had been printed in the Form of an Epistolary Correspondence and in which they were first written.

(4) See Gent. Magazine for Nov. 1750, page 490.

(5) Ibid.

(6) Henry Fielding, Esq;

(7) Charge to the Grand Jury, &c. 1749, page 55.



wanted) treats this (8) impolitic Disobedience in the *Great*, in so proper a Manner under the Article of Gaming, (very justly assigned as one of the Causes of the frequent Robberies with which our Streets daily echo) that one must be of a desponding Temper indeed not to hope for a good Effect from it. Indeed, would Gentlemen consider, that a disregard of one Law, naturally begets a light Way of thinking of others, and that the common People will not be restrained, when they see their Betters will not, nor will be brought to acknowledge, that Laws, if made for all, are to be kept by the Vulgar only ; that if it be the Interest of the Commonwealth, that the Laws should be observed, it must be most the Interest of those who have the largest share of Property in the Commonwealth ; and such like plain experienced Maxims, they would surely allow it to be no light matter for a Man in high Place, like *a City on an Hill*, to set the conspicuous Example of braving the Laws he had not only an Hand in making, but so principal an Interest in supporting.

Whether that crying and enormous Sin of *Perjury*, which overspreads the Nation and is at least, once in seven Years, Epidemical, may not contribute to the increase of *Robberies* (as an habitual making free with the Name and Honour of God, may perhaps induce the taking a little Liberty with the Purse and Persons of our Fellow-creatures) I shall not enquire : But it being directly to my purpose, I cannot help observing that *Cow-jobbers*, as well as *Borough-jobbers*, seldom boggle at an Oath when there is occasion to take one ; tho' I must acknowledge some of the more Scrupulous-conscienced of both do, if they conveniently can, avoid touching the Book with their Lips, and then all's safe *within*, and from *without* what Danger is there ? The making Oaths (9) so common and giving them upon every trivial Occasion, has too much abated the Regard that is due to them, and is justly complained of by serious People, Divines and Others ; but the *Impunity* that attends Perjury, and Subornation of

(8) Enquiry into the Causes of the late Increase of Robbers, page 30.

(9) See Whiston's Memoirs of the Life of Dr. Clarke, page 9.



Perjury (which Persons of all Parties are too well apprized of) at the same time that the Law so loudly thunders against them both, must surely very much encourage those Crimes in particular, and disobedience to the Laws in general amongst the common People, upon whom Example and Precedent operate much stronger than Precepts and Doctrines.

The Law in the present Case directs, amongst other cautions, that Certificates of Health shall not be granted but upon *Oath*, and tho' I am afraid, from what hath been just now observed, that Oaths are become but a slender Security, yet surely Gentlemen should not grant a Certificate without, seeing the Law doth require an Oath, and they themselves do under their Hands and Seals certify that one hath been administered, and that the Deponent hath been examined; neither of which is often the Case. Very different, indeed, are the Reasons given for the Omission; for some Gentlemen if they are asked why they do not swear the Dealers, or their Witnesses, will tell you, It is because they are sure many of them would *forswear* themselves if they did; (a dreadful proof of the necessity there is of providing some exemplary Punishment for, as well as an easy Method of convicting Offenders) whilst others will make no scruple to say, *It is because they do not think it worth their while to do it.* Now tho' both these reasons are very bad ones, there is something so shocking and eminently inexcusable in the latter, that one cannot help wishing it was made highly penal, if it could be done, without including the former, which has great Good-nature to plead in its Excuse; for good-natured a Man must certainly be, who will certify what is not true, under his Hand and Seal, rather than his Neighbour should involve himself in the Guilt of Perjury. Nay, indeed, if it be a Justice of the Peace who grants the Certificate, it goes somewhat further, seeing he is upon his Oath, and hath sworn "*that in ALL things he shall well and TRULY do and execute the Office of a Justice of the Peace.*" I don't know but by way of *Salvo*, it may be usually added, "*according to the best of his Wit and Cunning*", a kind of *Benefit of the Clergy* reversed

B

where

where *NON LEGIT* is to save his Worship's Conscience.

But if Certificates be sometimes obtained without an Oath, and sometimes with the help of a false one, *FORGERY* also at other times lends her Aid towards the same goodly Purpose of undermining the Laws; and tho' several melancholy Examples have been made of Offenders of this kind, nothing is more common than for Dealers who meet with scrupulous Justices and Commissioners, or who cannot readily meet with any, to drive and sell their Cattle by *counterfeit Certificates*. It seldom happens, indeed, that any Certificates are asked for, but when an Alarm is given that the Clerks of Markets, &c. are coming upon their Duty, no time is to be lost! Commissioners are not at hand, Pens, Ink and Paper (1) are called for, and a sufficient Number of Certificates soon dispatched to serve for the Occasion. Nay sometimes, if I am rightly informed, *half a Crown* properly given, hath obtained time to finish what was rather too late begun when the Officer hath come a little *mal à propos*, and things have been in some confusion. So *BRIBERY* plays *her* part too!

Whatever Effect the regular and cautious granting of Certificates, and careful examining of them when produced, might *separately* have had, it is very probable, if the Law (which in this point hath never varied) for *killing* the Beasts as soon as the Distemper appeared upon them, had *also* been duly executed at the first, the Contagion would before this Time have ended, and not only thousands of Cattle been saved but many hundreds of Families kept from ruin. Most of the Writers against *killing*, confess this; but they say, now the Infection is become general it will avail but little, which however I beg leave to say is more than they know. Is it not strange that, if this measure was wrong, it should receive the repeated Sanction of P——t without Opposition, and if it is right, that it should be so little pursued or encouraged, that in five Years time it cannot be said to have had a fair Trial?—Indeed

(1). See Gent. Magazine for Nov. 1750, page 489.



both Gentlemen and Farmers have been greatly to blame in this particular : The Gentlemen, out of false tenderness, being unwilling to force, as it were, their Tenants to destroy their Beasts ; and their Tenants, deluded by false hopes, and intimidated by false fears, being not easily to be persuaded to do it. As to the Tenderneſs of the Gentlemen, I ſhall in this place ſay but little, tho' I muſt not omit reminding them of being *juſt*, as well as merciful. If I treat my Cattle according to Law, and ſo ſtop the Diſtemper at its firſt breaking out, I ſhould think myſelf extremely ill uſed, if it ſhould be brought amongſt them again, by my Neighbour's acting in a different Manner, eſpecially if he were countenanced by his Landlord, whoſe Authority I might expect would be exerted in my favour, and judge myſelf entitled to, by my Obedience to the Laws which he is actually or virtually concerned in making, and obliged by his civil Relation to ſupport.

A fault is ſeldom committed, but ſome Virtue is pleaded in excuſe of it. Thus Tenderneſs countenances Injuſtice, whiſt Juſtice becomes a plea for Cruelty, and Religion ſerves for every purpoſe. A Highwayman may tell you, that it was a Love he had for his Family which forced him to thoſe irregular Methods of providing for them, and 'tis ten to one he adds, *that he that provides not for his own, is worſe than an Infidel*. Diſobedience to the Laws we are now ſpeaking of, is commonly defended by the Law of God, and upon religious Principles. We are told by ſome *that a juſt Man is merciful to his Beaſt* ; at the ſame time they are of all others the moſt cruel to them, in not endeavouring to ſtop the Progreſs of this ſevere and painful Diſtemper. Others will tell you, that do what you will, the Diſtemper will never ſtop, 'till it ſhall pleaſe God who inflicted it, to ſtay it alſo. This is very true ; and it behoves every Man, viſited with this Calamity, to humble himſelf before his God ; to lament his Sins, and the Sins of his Country, which, if they have not brought it upon him, may enable him to ſee and allow the Juſtice of divine Providence in this Diſpenſation ; to reform his own Life, and thereby do his beſt towards amending the Commu-

nity; to pray for success in his Endeavours, but at the same time to submit himself to the *legal Ordinances*, if not for his own, for the Lord's sake, from whom all Authority is derived, without which it is to be feared his Religion as it is *unwarrantable*, will also be *in vain*. But these Men willing to justify themselves, will suppose that the Distemper comes (as they say) *as it pleases God*; that is, without Infection, that therefore killing the Diseased will not abate it, and that it would argue a distrust of God's Mercies to oppose his Will and obey the Laws of the Land. Now to these Persons that argue thus, and do modestly oppose their Judgments to that of the King, and Council, and both Houses of Parliament, I would beg leave to state a similar Case: Suppose some Houses in the heart of the City of *London* were set on fire by Lightning from Heaven, would it be right to attempt putting a Stop to it, and that too by blowing up the contiguous Houses, the Property of private Persons, without their Consent, or would it not? God Almighty may bring his Judgments on a People by a Conflagration, as well as any other way; and may stop the raging of the Flames, as easily as of a Distemper, and yet I dare say there are very few but would give their Answer in the Affirmative of this Question. And surely the blowing up of Houses, is at least as unnatural a Measure in appearance, as slaying of Cattle, which, if they are not killed, and thereby delivered out of great Pain; in the time of the Distemper, are kept on purpose to be slaughtered in their best Health.

That the Distemper is communicated by Infection, and therefore very probably is not one of those heavy Calamities which we call *Judgments*, and as a very judicious Writer observes, are “*inflicted by more immediate, special and (2)* “*imperceptible interposures of Heaven.*” Experience makes so clear, that it is surprising any one can dispute it: The stopping of the Distemper by killing of Beasts at the first Seizure, in Places where that Discipline has been used, abundantly proves it; and for the Truth of that, I might appeal to several Noblemen and Gentlemen of Honour

(2) See *Gent. Magazine*, Nov. 1750, page 491.



and Understanding; but I choose to bring the Argument nearer Home, and ask these disputing Cow-keepers, whether they are not always displeased, if a Person, whose Herds are distempered, suffers a Dog to run at large, or his Servants that attend his Sick, to cross their Fields, or come amongst their sound Cattle? Surely if they are, and the Distemper is not spread by Infection, they are very often angry with their Neighbours without a Cause.

I am afraid much Error, in point of Practice, hath proceeded from the curious Disputes of the Philosophers concerning the Propagation of the Distemper; and when one asserts that it is by means of Animalcules, others by Contagion, some by corrupted Air, and others more truly by *they know not what*, it were to be wished they had made the Cow-keepers aware that be it by either of those Ways the killing of the distempered is necessary; for to multiply these Animalcula, no more effectual Method can be taken than to let them breed undisturbed; and when can they be so likely to fly off to other Cattle, as when the distempered Cow recovers? If this be the Case there is more Mischief done to the Country by a Cow that recovers of the Distemper (as there is certainly in other Cases hereafter to be mentioned) than by one that dies of it, and is buried as soon as dead; nay more Mischief to the Owners, whose Herds may be supposed to be nearest, and to afford the first resting Place to these invisible Instruments of Death.

As to Air, and Contagion, if they are to be considered separately, and People will have it that the Distemper doth proceed from unwholsom Air only; will it not be likely to be made much worse by the noxious Effluvia from a multitude of distempered Beasts that are suffered to languish and die of themselves? But as many, nay indeed most People, do admit that it is spread by Infection and Contagion properly so called, and that whatever noxious Particles the Air may carry to the Sound, it assuredly receives them from the Sick, and do therefore value themselves upon their great Care and Caution in shutting up the diseased Cows to be nursed and to die in close Stables, Barns, and other Hospitals, I shall here give them the

Words

Words of Dr. *Mead* to consider, as they stand in his most excellent (3) Treatise upon the Plague. “ While Contagion, says he, is kept nursed up in a House, and continually increased by the daily Conquest it makes, it is impossible but the Air should become tainted in so eminent a Degree, as to spread the Infection into the Neighbourhood upon the first Outlet. The shutting up of Houses in this manner, is only keeping so many Seminaries of Contagion, sooner or later to be dispersed Abroad: For the waiting a Month or longer from the Death of the last Patient will avail no more, than keeping a Bale of infected Goods unpacked. The Poison will fly out whenever the *Pandora's* Box is opened.”

The mention of these Hospitals brings to mind another Motive to Disobedience in the Cow-keepers; the Religious *Fear* beforementioned I believe has oftentimes much less Influence than a vain *Hope*; they flatter themselves with, of being profited by their setting at nought the Orders of Council, &c. And I am sorry to find such an Hope much improved by Calculations from (4) a masterly Pen, which surely proceeded upon Misinformation, or we have been much misinformed here: However that be, I must leave to Cow-keepers to consider what I shall say, which, if their own Observation confirms, will be likely to have its Effect upon them; if not, I cannot expect they should pay a greater Regard to an anonymous Writer, than they do to the highest Authority in the Nation.

The first Ground of their Hope is *Medicine*; and indeed when People daily see Cures performed upon human Bodies, by the Administration of proper Medicines, it is no wonder they are easily led to hope for the like Success in Beasts; and to try some of the many Receipts printed, for the public Benefit, in the News-papers (but which are generally calculated more for the Advantage of Druggists and Apothecaries, than Farmers and Cowkeepers) without considering that, thro' the Mercies of God, we of this

(3) Page 104.

(4) Observations on the Regulations which have been made for preventing the Distemper amongst the Cattle; presented to the Council, Jan. 9, 1750. See *Gent. Magazine*, Jan. 1750, Page 22.



Kingdom and Generation have not yet had the fatal Experience of the inefficacy of Medicine on human Bodies, in the Distemper supposed the most analogous to that now reigning amongst the brute part of the Creation; for tho' some Physicians choose to call it a *putrid*, some a *pestilential Fever*; some to give its Rise to vegetable or mineral, and some to animal Poison or Malignancy, no one can doubt of its being very near of kin, and in many Respects too much like to that which makes such Havock amongst the human Species, when it pleaseth God to permit the *Arrow* to go forth *that flieth by Night, and the Sickness that destroyeth at Noon-day*. Let People therefore before they depend too much upon Medicine here, because of its Success in human Bodies, reflect how few it was able to rescue out of the Jaws of the Grave, in that Distemper when in this Age a neighbouring Country was visited, and this Nation in the Days of our Fathers; although not only single Physicians, but the most learned Bodies of all Countries contributed their utmost Efforts to that salutary Purpose.

Let it likewise be remembered that the most skilful and experienced Physicians of our own Nation, as well as of our Neighbours, have actually attempted, without Success, the subduing the present Calamity with Medicines; nay that it hath been experienced that the same Medicines and manner of Treatment which have done good, or seemed to do good, in one Place, or on one Cow, have failed or done hurt in another: neither, indeed, could any other be expected, seeing the different Stages of the Distemper, the greater or less Violence of the Symptoms, the particular Constitution of the infected Beast, as well as many other accidental Circumstances must necessarily require Variations in the Remedies, and of Course create great Difficulty and Danger too, in administering the very best that can be contrived, in point of Time, Quantity, and other Particulars. There are, as an eminent (5) Writer observes, with which the proper Intentions of Cure may be served, " Various Prescriptions and Forms of Medicines not only among Physicians, but also among

(5) Willis of Fevers, Cap. ii. Fol. 92.

“ old Women and Empirics ordinarily in Use ; from  
 “ which, however, like a Sword in a blind Man’s  
 “ Hand, used without Difference, and exact method  
 “ of Healing, more Hurt than Good must often accrue  
 “ to the Sick.”

To judge when the Crisis is to be promoted, when Nature is to be left to herself ; when Cordials are wanting ; Phlebotomy required, Anodynes or Restringtons necessary, in short when to begin giving of Medicines, and when to leave off, requires more medical Knowledge and Acquaintance with the animal Oeconomy ; than can be supposed to come within the Reach of the industrious Farmer, or of any one he can afford to employ in attending his sick Cattle. Examples of Mismanagement are so frequent, where the Distemper rages, and *Doctoring* goes forward, that it is unnecessary to give any ; but yet it may not be amiss to obviate some capital Errors which the Farmer not only runs into, but thinks himself supported in by the fairest Appearance of Reason. As a critical Sweat often happens where a Cow recovers of this Distemper, and a fatal Looseness as commonly precedes and prognosticates Death, the warmest Cordials are generally given to promote the one, and the strongest Restringtons to prevent the other : And yet these Cordials do sometimes so augment the Fever, and put the Blood into such a violent Flame, that instead of Sweat, Death ensues prematurely, and the Remedy kills the Patient before the Distemper has had time to do it. And tho’ Restringtons may often be proper, for ought I know, I am very certain I have seen Cows killed merely by stopping that Flux, when it was critical, and (to borrow the Words of the Physician before quoted) *Nature was pouring off the more thick Purgings of the Blood* : Indeed at the latter end of the Disease, when the Looseness proceeds from a Loss of Strength and due Tenor in the Viscera, Medicines never did Good or Harm that I could perceive, except in making the Owners pay pretty dear for their Knowledge and Experience.

As Poison is said to drive out Poison, it is not unusual for Cow-Leaches to make the Experiment by giving large  
 Quantities



Quantities of (6) *G I N* in this Distemper; a remarkable Effect of which I cannot help relating. A Person who had a Cow seized with the Distemper, put her immediately into a warm Stable, and administered this notable Remedy, in pretty large Quantities diluted with warm Water, every three or four Hours: In about twelve Hours she fell into a breathing Sweat, and seemed easy, and by continuing the Cordial was kept so for three Days, when on a sudden the Sweat checked, (notwithstanding all the Care imaginable was taken of her,) and she by dreadful Groanings, tossing, and heavings sufficiently manifested the violent Tortures she was in; nor was it less plain that her Grief was in her Bowels, which in a few Hours lost their Tone, and the Costiveness, which had held two Days, ended in a most amazing and rapid Diarrhoea, and *that* carried her off in less than an Hour, but did not cease till after her Interment. The Stench of the Ordure was not less remarkable than the Quantity of it; and that the whole Neighbourhood was not infected by it, was perhaps owing to the Stable's being in the midst of a pretty large Village, and at a considerable distance from any Herds of Horned Cattle.

The Diffipation of the pestilential Ferment by Sweat, next to the Evacuation of it by bleeding, has received the Approbation of Dr. Sydenham (7), and even upon some Accounts is preferred by him, but yet he tells us this has its Inconveniencies too: One is because “ many young Men “ of a hot Constitution sweat difficultly (*and much more difficultly do Cows sweat*) “ and in such, the more you endeavour to force Sweat by strong Diaphoreticks, and by “ keeping on a great many Clothes, so much the more are “ they in danger of falling into Phrensy, &c.” He likewise observes the danger there is of the Sweat stopping (8) “ *before the morbid Matter be wholly dispersed;*” and in

(6) A hopeful Medicine indeed! if we may judge by what is observed in Germany (as Dr. Hoffman says) “ from the Effects which the caustick, fiery, remaining Wash of Distillers has on the Guts of Hogs, “ which are thereby so rotted that they cannot make Hogs-Puddings of “ them. See the Bp. of Worcester's Epistle to the Lord Mayor, &c.

(7) Pechey's Works of Dr. Sydenham, Page 69.

(8) Ibid.

both these Cases, it is the very same with the Cows, which I the rather choose to mention because it accounts for the want of Success in this favorite Method of treating them.

But rational Methods are not so often depended upon as Specificks; and we every Day hear of something that is found to be an infallible Cure for the Distemper. It is a Question whether the Bark be not the only Specifick that has ever been discovered, or at least that has gone through a Probation; and yet there is hardly a Distemper in the World that has not a sure and never-failing Remedy annexed to it, and upon which the People, according to their general Foible, do really depend; or else how could such multitudes of Advertisements be weekly, nay daily paid for? In one of the monthly (9) Collections there is a List of near two hundred such infallible Remedies, and yet do we not still die of Distempers? And is old Age the only Instrument in the Hands of Death? Are not our Joints still knotted with the Gout, and our Heads shaken with the Palsy? Yet still we gape after every new Boaster, especially if distinguished by remarkable Ignorance, or eminent Knowledge. If we hear of a Cure for the Gout discovered by an ignorant Man or old Woman; or by a very learned Physician; our Curiosity if not our Dependence upon its Success is raised to an equal Pitch, and we are mad to have the Medicine put into practice. So it is in the Case of the Cattle; as tho' a Cure for Distempers must needs be discovered by a Fool or a Physician, as they say the Longitude is to be, by a Fool or a Philosopher.

As to external Operations, nothing seemed to bid fairer for Success than boring the Horns, as several were said to recover upon their discharging from thence a large Quantity of purulent stinking Matter. This Fact was so well attested, it seemed reasonable some further Trial should be made therein; but I must own I have been so unlucky as never to have seen it practised with the least Appearance of Success. The *fleshy Slag* mentioned to be corrupted and gone away, I have seen quite full and florid in several Cows that have died of the Distemper; and the Horns

(9) Gent. Magazine, for August, 1748.



of a sound Cow have been found quite hollow at the Root ; nay indeed there seemed, in this particular, to be as much difference between one sound Cow and another, as between a sound and a distempered one. No doubt this Distemper, as well as many other Fevers, may sometimes have its Crisis in Tumors and Abscesses ; and when a Suppuration of Pus is formed in any Part, the letting it out may very likely save the Cow, as well as any other critical Discharge, but as that favorable Circumstance doth not very often happen, so I believe it is oftener made in other Parts than the Horns.

Medicines, as Preservatives, are highly worth considering ; and I doubt not but Tar, *Assa foetida*, Gunpowder and other sulphureous Smokes, the Fumes of Vinegar, &c. where they can be used, may be very beneficial. Many Internals have also been advised as Preservatives, and it is great pity we have not Accounts given of what have been tried, with or without Success. In (1) one of the Magazines there is a Direction given (and said to be recommended by a noble Lord) for putting into the Beasts Ears, and stitching it in, a Paste made of two Ounces of *Assa foetida*, the same Quantity of Garlick and an Handful of Rue beaten together. In (2) another, we find two Receipts ; the former is nothing but genuine Rum Punch ; one, two, or three half Pints to be given in Proportion to the Size of the Beast ; which is said to have been often practised with Success in *Barbadoes*. The other is this ; “ Take *Barbadoes* “ Tar four Ounces, Quicksilver two Ounces ; rub them “ together in a Mortar till the Quicksilver disappears, then “ add (all finely powdered) Nitre two Ounces, Rock- “ Allum and Nutmegs of each one Ounce, *Armenian Bole* “ as much as is sufficient to make the whole into eight “ Balls, to be given one every Morning and Evening.” An anonymous Author recommends the *Liver* of Antimony, or what is much the same, the *Crocus* of Antimony, to be given five Drams to an Ox, three to a Cow, and one to a

(1) Gent. Magazine for March, 1750.

(2) ————— for September, 1749.

Calf once in ten Days, as a Preservative ; and Dr. *James* (3) says nothing is so likely to succeed.

It is also much recommended, when the Distemper is in the Neighbourhood, to fumigate the Beasts often with Vinegar and boiling Water, but upon the first Appearance of the Infection in the Herd, immediately to remove and kill the failing Cow, and to bleed and peg the rest, and forthwith to drench them all with a Decoction of bitter Herbs, such as *Camomile*, *Fetherfew*, *Rue*, *Sage*, *Wormwood*, &c. and some proper *Alexipharmics*, (as they are called) such as *Virginian Snakeroots*, *Butterbur*, and *wild Valerian*, and now and then to give some Cordials, and perhaps Rum Punch made sufficiently acid may be as good as any thing. This Method of giving *Alexipharmics*, before the Appearance of the Distemper, is agreeable to what hath been advised in (4) pestilential Times long ago ; and has this to recommend it, that it is in nothing contrary to Law, which curative Methods are, and which would be soon left off, if People would form their Judgments from the Expence and Experience of them. Nay indeed some Farmers in these latter Days have done so already, and confirm what hath anciently been observed of the inefficacy of Medicines on this Occasion,

— *nec jam mutari pabula refert ;*  
*Quæsitæq; nocent artes : cessere magistri,*  
*Phyllirides Chiron, Amythaoniusq; Melampus* (5).  
 VIRG. *Georg. Lib. 3.*

(3) Dr. James's new English Dispensatory, Page 826.

(4) Tutissima ergò pestilentiam curandi ratio summatim hæc erit. Si pestilentia aliquem invaserit, Deo in auxilium primùm invocato, mox ad alexipharmaca et sudorifera confugiendum, neque ullo modo curatio differenda. Atque existimo tot homines peste sæpe interire, quod plerique tardius alexipharmaca usurpant, multosque posse servari, si ea citius, et antequam venenum humores corrumpere incipit, assumerent. Aliquoties enim observavi hic in pestilentibus constitutionibus, quosdam cum se infectos sensissent, statim sumptis alexipharmacis ad sudorem se composuisse, et postea nihil mali amplius passos esse, sed postridie ad consuetæ negotia rediisse. Sennerti de Febribus Lib iv. cap. 6. p. 161.

(5) Besides to change their Pasture is in vain,

Or trust to Physick ; Physick is their Bane :

The learned Leaches in despair depart

And shake their Heads, desponding of their Art.

DRYDEN.

and



and they fairly acknowledge, what I really believe to be always the Case, that more Beasts recover without Medicines, than do with, and that the Expence of the Preparations and Attendance would buy more Cows than are cured by them.

Yet still even these Men are not willing to kill, they hope many Cows may be recovered by a little good Nursing without any Medicines at all: And suppose they may, and that they save ever so large a Share, yet they lose them that do die; and if the Infection be continued in the Kingdom by those that recover, they are losers by them too, even in their separate and private Capacities: But every Cow-keeper ought to consider himself also as a Member of the Community which is so greatly affected by the continuance of the Infection: The loss of so many Carcases, Hides, and Tallow which would otherwise come to Market, and which must be severely felt; the utter ruin of a Number of useful Families, which must necessarily ensue; are Considerations that call upon every Man, not so much to endeavour the saving his own Cows, which are distempered, as the putting a stop to the Evil, even though it should be by means of his particular loss. The very learned Dr. Mead (speaking of Laws proper to be observed in the time of Pestilence says) “ if there be any severity in  
 “ Orders of this kind, every Man ought to consider  
 “ himself as a Member of Society, by the Laws of which,  
 “ as he receives many Advantages, so he gives up some-  
 “ what of his own private Rights to the Public; and  
 “ must therefore be perfectly satisfied with whatever is  
 “ found necessary for the common Good: altho’ it may  
 “ on particular Occasions bring upon him some Inconve-  
 “ niencies and Sufferings.

“ *Salus Populi suprema Lex est.*

“ Does any one” says he “complain of the Usage upon his  
 “ House being ordered to be blown up to stop the Progress of  
 “ a Fire, which endangers the whole Street, when he reflects  
 “ that his Neighbour, who by this Means escapes, must  
 “ have suffered the same loss for his Sake had it so happen-  
 “ ed that each had been in the other’s Habitation”? (6)

(6) Preface to Dr. Mead’s Treatise on the Plague, page 39.

This

This Reasoning is so strong, and so applicable to the present Purpose, that the Matter might be rested here, and left to the candid and christian Farmer who is willing to do as he would be done by, whether he is not in Conscience bound to conform to the established Rules, and that more especially as it is manifest his Neighbour doth not only suffer by every Cow he endeavours to save, but more so, as has been hinted above, by every one that recovers than that dies. I speak not now of the *Encouragement* he gives his Neighbour to propagate the Injury, or of barely keeping the Infection alive in the Kingdom, but of the Damage done by the driving and marketing of recovered Cows: For as soon as one is cured and fit to go forth, it is notoriously known that the *Jobbers* catch her up, get a Certificate of her having had the Distemper (which, by the Way, no Justice of Peace, or Commissioner of the Land-Tax, can justify granting) and she is drove about the Country, held up at a great Price, and generally sold for more than she is worth; And tho' the Person who buys her is to be supposed wise enough to keep her some time apart from his other Cattle, neither he nor even the Seller himself can tell how many other Herds she has infected in her Progress. A Man that recovers of the Small Pox is expected to perform a Quarentine six times as long as a Cow that recovers of a Distemper ten times more infectious, is shaved, washed and by all proper means cleansed from the Infection; whereas the Cow is not so much as washed, comb'd, or wiped before she becomes marketable.

Here, I say, we might rest the Question whether the Farmers ought to kill their deceased Cattle or not; but as the Legislature has considered the weakness of our Nature, and enforced the Laws, made for our own good, by Rewards as well as Punishments, we shall consider it in another View, and enquire whether on the Account of the *Rewards* it be worth while for the Farmers to shoot their Cows as they fall? Now if we kill them according to Order, and they are worth four Pounds a Cow, or less, we are to receive just half their Value; so that unless the Cowkeeper saves half his distempered Beasts he is a loser  
by



by not accepting the Reward, even placing the Expence of burying them all against nursing them all and burying half. But then it is alledged that a Cow which recovers, becomes more valuable than she was before she had the Distemper; and so she certainly does (notwithstanding what has been plausibly urged to the contrary) for this plain Reason, she will fetch more Money at Market. It is also argued that many Cows (not to mention Oxen) are worth six, seven, or eight Pounds a Head, for which if they were killed the Owners would only receive the Reward of forty Shillings a piece; and that therefore it is better to abide the Chance of their Recovery, because every one of such high-priced Cows gains to the Balance on that side the Question, four, five, or six Pounds: I have indeed been much surpris'd to hear it added, that a third Part of the distempered Cows recover.

On the other hand it has been as confidently asserted that even a fifth part in general do not recover; but supposing a fourth part do recover (which I am sure they have not in *Number*, and much less in *Value*, within the compass of my Observation) the Cowkeeper must consider that if he hath four Cows ill, they are *all* to be attended, looked after, and nursed, and I hope by Servants that are not suffered to go to the healthy Cows, the Expence of which cannot be much less than five Shillings a Head (in the Midland Counties) but admitting it is but four Shillings and that he recovers one Cow and buries the other three, his Loss may be thus stated, by way of

Profit and Loss, ( <i>viz.</i> )	Dr.	Contra	Cr.
	<i>l. s. d.</i>		<i>l. s. d.</i>
To Stock for four Cows at 7 <i>l.</i> per Cow	28 0 0	By one Cow recovered valued now at	7 10 0
To Expences, <i>viz.</i> Nur- sing and Attendance	0 16 0	By Balance lost]	21 15 0
To Ditto <i>viz.</i> Burying three Cows	0 9 0		
	<hr/> 29 5 0 <hr/>		<hr/> 29 5 0 <hr/>

On the other hand let us state the same Accompt as it would stand in case the Orders had been pursued.

Dr.			Cr.		
	<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i> <i>s.</i> <i>d.</i>
To Stock as above	28	0	0	By Rewards for four Cows	8 0 0
To Expences, <i>viz.</i> Shooting and burying four Cows	0	16	0	By Balance lost	20 16 0
	28	16	0		28 16 0

I must here take notice that the Distemper generally goes off lighter with the Sturks, and Heifers, than with full-grown, and incalf Cows, and that the following Scheme is not altogether supposititious.

Dr.			Cr.		
	<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i> <i>s.</i> <i>d.</i>
To Stock for five Cows at 7 <i>l.</i> per Cow	35	0	0	By Cows saved, <i>viz.</i> one at	7 10 0
To Ditto for four at 3 <i>l.</i> 10 <i>s.</i>	14	0	0	By two Ditto at 4 <i>l.</i>	8 0 0
To Expences, <i>viz.</i> burying six Cows	0	18	0	By Balance lost	36 4 0
To Ditto Nurfing and Attendance	1	16	0		51 14 0
	51	14	0		51 14 0

The same Accompt if the Orders had been observed would have stood thus :

Dr.			Cr.		
	<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i> <i>s.</i> <i>d.</i>
To Stock as above	49	0	0	By Rewards for five Cows	10 0 0
To Expences, <i>viz.</i> shooting and burying all the Cows	1	16	0	By Ditto for four Cows	7 0 0
	50	16	0	By Balance lost	33 16 0
	50	16	0		50 16 0



I am sensible very different Calculations have been made, and I would wish every Farmer would examine them, and if he finds these are the most erroneous, that he would impute it to mistake, and not to any wilful design of imposing upon him. I do not trouble him with a Calculation, where all the Cattle are of, or under the Value of four Pounds ; the thing there speaks itself: But I cannot help referring the Reader once more to the *Gentleman's Magazine* of *January* 1750, and of the *March* following, in the latter of which the Case of the four Pound Cows is fully considered ; and in the former may be seen all the Arguments that can be brought on the other side of the Question.

I am now to go a Step further and suppose, what I have not done already, that by shooting part of my Stock I save the rest ; the Accompt will be very greatly altered, and may, I apprehend, be very fairly stated thus in respect of the last mentioned Stock, *viz.*

Dr.				Cr.					
	<i>l.</i>	<i>s.</i>	<i>d.</i>		<i>l.</i>	<i>s.</i>	<i>d.</i>		
To Stock as above for nine Cows	}	49	0 0	By Rewards <i>viz.</i> for two Cows	}	4	0 0		
To Expences in shoot- ing and burying two Cows				}				0	8 0
					By Ditto for three more saved				
				By Balance lost				10	8 0
								49	8 0

I have here supposed that it falls to the Lot of two of the best Cows to be distempered which leaves the Owners loss ten Pound eight Shillings ; if we suppose one of each Value falls, his loss will be but seven Pound three Shillings ; and if both of the lowest-priced Ones, then but three Pound eighteen Shillings ; however take the greatest Loss and compare it with what he will probably suffer by disobeying the Orders, and he will find a Difference of twenty-five Pound sixteen Shillings. True it is that some Cowkeepers

have

have had the good Fortune to save almost all their Cows ; and it is that which, like a great Prize in a Lottery, draws in so many Adventurers. I have not in the foregoing Calculations troubled the Reader or myself with nice Enquiries into the Laws of Chances, but this I think is a pretty plain one ; If it be three to one (as it is at least) that any Cow that falls sick of this Distemper shall die of it, and I receive half her Value (before she took the Infection) for killing her, I am advantaged in the same Manner as I should be if I laid down one Shilling and another Person three Shillings, upon a fair Bet, and my Antagonist should agree to split Stakes, in which case I suppose no body will dispute I am a winner of one Shilling. In other words, if I sell four distempered Cows, worth sixteen Pounds in health, for eight Pounds, and the Purchaser abides the Chance of their living and dying, and only one recovers, he will lose the four Pounds, which I have gained, by the Bargain. This goes upon a Supposition that half the Value is paid, which indeed to Owners of high-priced Cattle is not ; and therefore with all due Deference and Submission to the high Authority now before us, I would beg leave to say something more on this Head, to the Intent it might be considered, by those who only have Authority to determine it, whether, although the Laws ought most certainly to be executed as they stand already, some Alterations in the Rewards and Punishments might not occasion their being more briskly carried into Execution ?

Well disposed People will do what is right, merely because it is so ; but it is to be feared this Age does not greatly abound with those very well disposed People ; and a partial Observance of the Law will do but little good : Nay indeed the Money that is paid to those People that do conform, serves to little purpose unless the Conformity be general. Rewards therefore seem necessary, and Rewards that are adequate ; for such is the waywardness of human Nature, no sooner is a Law proposed with a Reward but we fix our Attention on *that*, and quite lose sight of any prior Obligation. And to another perverse way of judging we are extremely subject, which is not  
so



so much to consider whether we receive sufficient, as whether our Neighbour receiveth more? It is not a matter of question whether the Owners of Cows worth seven or eight, or of Oxen of ten Pounds Value, ought to receive a full half for killing them, but rather why their Neighbours, who keep those of three or four Pounds Value, should have the full half and they not? If, say they, a third, a fourth, or a sixth part of the Value was thought proper to be allowed, why should not we receive it as well as others? Now in favour of them it is urged, that a Man who kills a Cow of the Value of eight Pounds, sacrifices as much to the Publick, as he who kills two of four Pounds Value; that the breeding and feeding of these better sort of Cattle should not be discouraged, as the Rents of the better sort of Land, which pays most to the Land-Tax, cannot be kept up without them; and that these Sufferers are at least entitled to an equal share of Relief from the publick Fund, with those that pay less to it. Nay it is further said, that the *circumstantial* Losses of those *Dairy-men* that milk good Cows are greater in proportion: For the lower-priced Cattle are generally Sturks and Heifers, and the higher-priced are full-grown Cows and perhaps in Calf, upon which a Dairy-man has great Dependence; as a new-milched, well bag'd Cow that comes in her time, does not only advantage the Dairy-man merely by the Quantity of the Milk she gives, and by keeping up his due Quantity of Butter for his *London* Chapman, but also by mending all the rest of it: So that when he loses such an one, he not only suffers just so much as she would fetch at Market, but he fails both in *Quantity* and *Quality* with his Butter-man; and all the rest of his Milk becomes of less Value, for want of the new milched Cow that was now to have come in.

And as to dry Beasts; the Heifers, &c. which are kept at Straw, or poor Hay, or upon indifferent Land, are not expected to pay so much as the better Cattle when they are sold out: And if the latter are seized with the Distemper just as they are *got forward*, and have taken to their Pasture,

ture, or Hay, and begin to thrive; the real Value which they would be of, *to a Buyer*, immediately before their Seizure, is far short of the Value they are of to the Owner, who is now about reaping the Profit of his former Care and Expence, as they will now pay for their keeping by the Week (tho' kept with the same Food) more than double what they would, some Weeks before.

These Arguments, and many other, the Owners of the better Cattle often use, but whether they are such as will stand the Test of Examination or not, or whether represented here in their due Force I do not know; but this is certain, the Example of not killing was first set by the Owners of the high-priced Cattle. True it is, said they, People that have Cows that do not exceed four Pounds, are to blame if they do not accept of half their Value; but what is forty Shillings in eight or ten Pounds? We will even run the hazard of the whole, and so they did; and being generally the most considerable in the Parish, their Example was soon followed by the lesser ones, who considered not the difference of the Circumstances, but only argued that if Mr. ——— does not follow the Orders, why should WE.

I do not pretend to know the Reasons for limiting the Reward to forty Shillings, they may be such as are unanswerable; but as I have heard some given, I shall just mention them with a short remark or two.

And first it is said, The Nation cannot afford to give the full half Value of all the Beasts that should be killed. I am very far from thinking myself any Judge of what the Nation can afford; and I believe most of those that make the Objection know as little as myself: To determine this belongs to another Province, but one would think if it would stop the Distemper, every Landlord in the Kingdom had better pay a Shilling in the Pound Land-Tax, rather than not give it; and if it will not stop the Distemper, what is given already is too much.

The next Objection I have heard is, that it would encourage Perjury, and Frauds, and the Public would be continually imposed upon by false Valuations. But this  
proves



proves too much ; for it holds as strong against the present Method of ascertaining the Value of Cows below the price of four Pounds, and may be carried to the giving any Reward at all, the impropriety of which is indeed by some alledged.

And I must own it is stated with great Force by a Writer already quoted : His grand Argument is that the giving a Reward for killing distempered Cattle encourages a destructive Traffick, and *gives a Value to Drovers (7) of Cattle which had none before* : In which he is answered by another Writer, who (8) says, “ I admit that the Distemper may have been this way propagated ; but all Traffic with such distempered Herds would soon be effectually stopp’d, if the Penalty upon such Trade was duly levied. Who would venture to sell or buy a single Beast out of an infected Herd, if the Orders of Council were strictly executed ? And the Author should rather have urged the Execution of the Law than condemned it for Inconveniencies attending the Violation and Non-execution of it. If the Law was executed, there would be no trading with distempered Herds, consequently such Trade can be no just Objection to the Law.” He then puts a Query which much affects the Matter in dispute ; *viz.*

“ On Supposition that one third of all distempered Beasts recover (which is the opposing Writer’s own Supposition) “ how does it appear that a distempered Cow is of no Value ? ”

If a Man will buy a distempered Cow illegally, merely for the sake of the Reward, I should think indeed he would be apt to traffick for her upon the Chance of her Recovery, if that Chance be but two to one, and the Seller will take about a fourth Part of her Value ; all which must be admitted, I conceive, according to the Reasonings of the *Author of the Observations* himself.

(7) Observations on the Regulations, &c.

(8) Gent. Magazine for March, 1750, Page 106.

This Writer in the Value of the Beasts seems to come much nearer the Truth than any other Calculator that has yet appeared, and I was greatly surpris'd to find his Valuation of Dairy-Cows at five Pounds a-head, and Steers at seven Pounds disputed, it being common for Dairy-Men at some times in the Year to have Cows worth not only five, but six, seven, or seven Pounds ten Shillings a-piece; and Grainers to have Oxen worth ten or twelve Pounds a-head; (not that I say seven Pounds is a proper Average for whole Stocks, I am sensible that is too high a great deal, and it was proper to set it so, in the Argument that introduced it, above, which concludes *à fortiori* when the Average is lower) I cannot also help being of this Opinion that the Præmium is too low to secure the immediate knocking down, and burial of ALL Cattle as soon as seized, (which to be sure is the Design of the Præmium) but I cannot think with him, that the *full Value* of the Beast is necessary, but that *half* the Value of *all* Cattle without Limitation, would be sufficient, and prevent the grumbling there is, amongst the Owners of the better sort of Cattle, about it; and perhaps leave them without Excuse to their Landlords, their Neighbours, and their Country, for not complying with the Laws of it. Nor can I think it would have the Effect of encouraging a distempered Trade; but supposing the worst, that it should do so, yet when the Distemper ceases itself, that Trade must cease of course, and if it secures the knocking down and burial of all distempered Cattle, it answers the End of it.

Frauds no doubt will be committed and the Public sometimes suffer by them (or as a late Writer expresses it) be FLEECD (9) perhaps a little, but lesser Inconve-

(9) See an *Essay occasioned by the Distemper of the Cattle*, Page 4. If this Subject be treated somewhat differently in that Essay, there are so many similar Sentiments to be found therein, the Author of these Sheets, to avoid the Imputation of Plagiarism is obliged to assure the Reader that he had never seen that Treatise till this was almost prepared for the Press; and that therefore as nothing could be stolen from, so neither was any thing wrote in Opposition to what is there advanced.



niencies must give way to greater (1). The stopping of the Distemper is the thing aimed at by the Præmium, and unless it be soon accomplished, it will not be worth the while of many of the present Occupiers of Land to think about it. Surely it will not be alledged that the increasing (or rather making more equal) the Præmiums will encourage the Farmers to buy at random more than as they now stand, for there can be but very little difference, as to spreading the Infection, in buying a little Cow at random, or a better Sort; but as it stands also an Argument against allowing *any Reward at all*, I would beg the Dairyman or Grafter, who runs Hazards merely because half the Value of the Cow will be allowed him when she is killed for having the Distemper, to consider that if he buys an infected Cow he brings the Distemper to the rest of his Stock, and thereby reduces them also to about half their Value; that if his Cows die, especially in the Winter when it hath been usually most fatal, his Hay, which he hath laid up at a great Expence, will lie upon his Hands for want of Stock to spend it to Advantage, and will every Day decrease in Value; that his Rent, his Servants Wages, his House-keeping, his Parish Rates will all run on, when he is reduced to half a Stock, just as they would if it were full; that his Grounds will be infected and therefore dangerous to a fresh Stock; and that he will be disappointed of his Returns with which he used to go to Market to lay in a fresh Stock.

(1) The Author of the Essay observes that the first and chief end of the Præmium is to put a Stop to and if possible to extinguish the Distemper; and that the Bounty by way of Relief to the Sufferers is only a secondary Intention; If so those Cowkeepers who kill and bury within twenty-four Hours after the Beasts will not *eat their Meat* (tho' perhaps they have been seized with the Distemper two or three Days) such only, as, upon the then Appearance of the Symptoms, they judge to be irrecoverable, saving those that are more favorably distempered, and thereby are so far from conforming in *all things*, that they do obstruct, in the principal thing, the Intention of the Law; and do under these Circumstances obtain the Bounty; they (to speak in the mildest Terms) do not come very *honestly* by it; of which indeed they are so sensible that they seldom say much more in Excuse of themselves, than that it was not they that first set the Example of FLEECING the Public.

And

And indeed they are so far from not considering these things, that it is become almost an Axiom amongst themselves, that when a Dairyman loses a Cow worth five Pounds he is a Sufferer of ten Pounds; and therefore, supposing he should receive fifty Shillings of it from the Government, how can he be fool-hardy enough to buy at random and run a manifest Hazard of losing three times as much? And yet——too true it is, tho' they are at present entitled but to forty Shillings for Compliance, and to nothing if they do not comply with the Rules (which at the very time of buying, they generally are resolved not to do) they deal as much at random as one would think they could do were they to receive the full Value of their Losses. I am afraid one Reason is true, which is given on their behalf, *viz.* that many of them cannot help it. The Trade is got so much into the Hands of Jobbers, that if they do not buy of them they cannot stock their Land at all; and buying of the generality of those Dealers is buying at random indeed. But here I leave this Head, and proceed to consider yet another Excuse made by Cow-keepers for not killing their Cattle; which is the *Difficulty* they meet with in obtaining the Reward which is allowed.

If there were no Reward at all to be got, it is their Duty to submit; but indeed if a Reward be promised and more Difficulties than are necessary to secure it from Frauds attend the obtaining of it, in this Case as in many others, what was meant for an Encouragement to Obedience proves the contrary. In former Orders of Council, Commissioners of the Land-Tax (who one would think should not countenance Frauds by which they themselves must be Sufferers) and Justices of the Peace out of Sessions (who one would think should be much the same kind of Men as Justices in Sessions) had Power to order the Reward, which is now lodged only in the General Quarter Sessions (2). Our Governors had no doubt good Reasons for

(2) The Author of the Essay before-mentioned intimates that the Præmium had been misapplied; nay and insinuates as if it had sometimes been done by PATRIOTS too, “ who thereby put the Government



for making this Variation, and in Favour of it, it must be acknowledged that before it was made the Cattle were not generally killed ; but whether more than are now I take not upon myself to say ; however I cannot help inserting a Letter in this Place from a Farmer to his Landlord, the Genuineness of which I must leave to the Reader to judge of, as I have no Permission to give him the Names of the Persons.

*Honored Sir,*

“ I Have received a Letter from your Steward to inform  
 “ me of his coming to ——— upon his Audit, and  
 “ desiring me to meet him there with my Rent. I hope  
 “ your Honour will consider my Losses in my Cattle,  
 “ and allow something towards them ; and send us Word  
 “ whether we must continue to shoot them as they fall ;  
 “ for Sir ——— has told his Tenants they may  
 “ do as they please ; and if they don’t kill theirs I am  
 “ afraid it will be of little Service for us to kill ours as  
 “ nothing but a Hedge parts the two Lordships. But I  
 “ will not fail to do as you think proper, tho’ hitherto I  
 “ have had but poor Luck. I went to the last Quarter  
 “ Sessions twenty long Miles, and through very bad  
 “ Roads, with my Servant for a Witness, but when I  
 “ came there the Clerk of the Peace told me he was very  
 “ busy about something which he *got by*, and that he  
 “ could not have time to do *Charity Works* till to-morrow.  
 “ So we staid all Night and the next Morning went to  
 “ Court again, but then I found it would not do, for we  
 “ had never an Officer of the Parish with us, because our  
 “ Overseer who saw the Beasts killed and buried would

“ to an unjust and fruitless Expence, and in so doing were plainly in-  
 “ strumental in (what they have often laid to the Charge of others)  
 “ *fleeing the Public.*” One Instance of Misapplication was ordering a  
 Reward for the burying of Cows that *were suffered* to die of the Dis-  
 temper ; whereas this Author alledges that it was only intended for  
 Cows that *happened* to die before they were perceived to have the Dis-  
 temper or could be killed according to the Orders.

“ not go under ten Shillings and his Charges ; and the  
 “ Clerk told me I must swear I could not have an Officer  
 “ or else another credible Witness would not do ; and  
 “ besides that the Court would not look upon my Ser-  
 “ vant as a regular Witness to the latter Oath tho’ he  
 “ was to the former. Finding I could not do my Busi-  
 “ ness I came away, but the next Day my Neighbour  
 “ H——, one of the Sufferers in our Parish came home  
 “ with his Certificate allowed, whose Case was just the  
 “ same as mine ; but he was wiser and got Mr. J——s,  
 “ Drover, to swear for him ; and he himself swore no  
 “ Officer could be got. I asked him how he durst take  
 “ such an Oath, he said it was no false Oath as he was  
 “ informed by a very good Lawyer ; for that as no Officer  
 “ could be got to come *for nothing*, the Law did not oblige  
 “ him to find one at Expence, and that therefore he might  
 “ safely swear none could be got. But then I told him  
 “ I was sure the Drover was forsworn, for he knew no-  
 “ thing of the Matter ; but as to him his Answer was  
 “ that he only was to swear to the best of *his Knowledge*  
 “ and that would do (3). I wonder’d indeed the Justices  
 “ would take such a Fellow’s Oath, but he told me there  
 “ was no body in Court knew but he was an honest Man,  
 “ and so it went off there pretty well. But he is not

(3) As ridiculous as this may seem, I wish it may not be an Excuse found in the Mouths of Persons of better Character and Meaning than this Evidence, for swearing to things they do not know to be true. An Attorney, who takes the acknowledgment of a Fine and is (as I am told) to swear to the Parties being of Age, seldom troubles himself about it any farther than asking them the Question (who will be sure to say yes) and looking at them ; as if he could know a full-aged Man by looking in his Face, as certainly as he could a full-aged Horse by looking in his Mouth ! What Salvo they have for this I don’t know, but I cannot help quoting in this Place the Words of as fair a Casuist as I believe hath appeared in any Age ;

——“ Nay if I swear to the Truth of that whereof I am only doubtful, tho’ the thing should happen to be true, yet it brings upon me the  
 “ Guilt of Perjury ; for I swear at a venture, and the thing might for  
 “ ought I know be as well false as true ; whereas I ought never to swear  
 “ to any thing, the Truth of which I do not *certainly* know.” *Whole Duty of Man*, Sund. 4.

“ much



“ much better for it yet, for as he had no Acquaintance  
 “ in *London* to send it to, he made a Journey almost on  
 “ Purpose, and went to the Gentleman that pays the  
 “ Money who was very civil to him ; but told him he  
 “ could not pay till fourteen Days after his receiving the  
 “ Clerk of the Peace’s List ; and therefore desired he  
 “ would call again three Weeks after : Since which he has  
 “ made another Mistake ; for last Week he sent it up, be-  
 “ ing the Time appointed, by a Neighbour who was going  
 “ to *London* upon some Business, but then it could not be  
 “ paid, because there was not a Receipt upon it ; and so it  
 “ is come back here once more ; however he will be sure  
 “ to have his Money, and so I hope shall I, for I intend to  
 “ comply with the Overseers Demand which I own I  
 “ think is not an unreasonable one. Your Honour I hope  
 “ will pardon me for troubling you with these Things, for  
 “ I thought it was proper you should hear how we went  
 “ on. And so I remain,

“ Honored Sir, Yours, &c.”

I say the Reader is to judge whether this Letter carries  
 with it the Marks of Genuineness or not, but he cannot  
 deny but every one of these Circumstances may have hap-  
 pened, and yet no one Person concerned in granting, or  
 paying the Reward, be to blame. For Instance, the So-  
 licitors of the Treasury were not to blame for not paying  
 the Reward without a Receipt, or before the fourteen Days  
 were expired ; the Clerk of the Peace was not to blame  
 provided he transmitted the List within a Week after the  
 Sessions was over or adjourned ; ( I say *provided he did* )  
 neither were the Justices to blame in taking the Oath of  
 the Fellow who knew nothing of the Matter, as they very  
 likely had no Opportunity of knowing his Character ; nor  
 for refusing the Owners Servant’s Oath ; who if he be such  
 a Witness as the Order requires in the second Deposition,  
 was not so till it appeared that no Officer could be had ;  
 neither was the Clerk of the Peace to blame for referring  
 the unprofitable Business, rather than that which he got  
 his Living by, to the next Day ; nor was the Overseer to

blame in refusing to go twenty Miles, and to stay out two or three Days from his Business without being paid for it. Whether any of these Things require Alteration or not is to be considered by wiser Heads than mine ; but they naturally bring me to say something more on the Parsimony of this Law.

The Clerk of the Peace has here a great deal of Trouble, and if he does his Duty, in other Particulars a great deal more ; the Justices Clerks, and the Parish Officers have also a great deal of Business and no Profit, for want of which, Business generally moves slowly ; (*for who (4), as a great Man observed to Mr. Fielding, serves the Public for nothing?*) The Inspectors and the Officers in some Cases may *take* a Reward, but who is to set them to work? And who is to pay their Wages? Why, the Justices of Peace in their Quarter Sessions. But if the Distemper should happen to break out just after the Sessions is over, it may rise to its full Height before the next ; and as to Volunteers, they have generally been so poorly paid, it is not much to be expected many more will list into the Service. A man must have a Friend at Court to get *any thing* from the County Stock for *past Services*, nay be a *Justice* if he hopes to reimburse himself: I speak not this from surmise ; I knew the Case once happen when a Zeal for the Service of the Public engaged some private Persons to employ an Inspector (*Curiâ non sedente*) to whom they agreed to give half a Crown a Day every Day he was upon actual Duty : (for the District was large, and he was obliged to hire an Horse.) At the next Sessions Application was made to the Court, who confirmed the Inspector in his Office, but allowed him only one Shilling a Day for every Day he *should* be so employed ; so that the Persons who set him on work had all that was past to pay for, and moreover were to lose eighteen Pence a Day by the Continuance ; the consequence of which was that the Inspector was discharged by his Retainers, and every one was left to do as he saw fit in his own Eyes. I must here be so

(4) Enquiry, &c. Page 105.



just as to say the particular Hundred was (at the Recommendation of the Justices and Commissioners of the Land-Tax in the Division) so generous as to assess themselves, in order to raise the Money deposited in this manner for their Benefit, and the County Stock was not diminished a Farthing by it; which shews that the nearer we are to the Scene of Sorrow, the more disposed we generally are to relieve it. Now the Justices of the Peace in their respective Divisions, besides being engaged by this local Relation, may be easily called together upon any Emergency; can better judge of, as well as be disposed to assist in the particular Exigencies of the Place; they generally know all People that can come before them, and therefore they would in many Cases be better able (in all Cases it is hoped as willing) to detect Frauds, than the Quarter Sessions; the Multiplicity and great Variety of whose Business (5) (taken notice of by Mr. *Fielding*) will scarce admit of their being very nice and circumstantial in their Enquiries.

But to proceed; this remarkable Frugality has created a kind of *Interest* in the afore-mentioned Officers, Justices and Commissioners Clerks, and almost every other Officer to *screen* rather than detect Offenders, and to keep the Laws dormant, rather than promote the Execution of them; for they are to give not only their Pains, but their Time, which is their Treasure, *gratis*. Sir *Josiah Child* (quoted by Mr. *F.*) says, that “there never was a good Law made that was not executed;” I cannot be of his Opinion, but I firmly believe there never was a *gratis Law* made that was *well* executed; if the Wheels move heavily, and the Road be *up Hill* few ever care to *draw* for nothing.

But as Lawgivers have two Ways of enforcing their Precepts, *viz.* by Rewards, and by Punishments; and as I have, I am afraid, detained the Reader too long upon the former Head, I shall now very briefly say a Word or two on the latter.

(5) “The Business of the Sessions is so complicated and various, that it happens, as in all Cases where Men have too much to do, that they do little or nothing effectually.” Enquiry, &c. Page 65.



The very just Observations of Mr. *Fielding* relating to Informers are so applicable here, and as his Book is, or ought to be, in every Man's Hands that is concerned in putting the Laws of the Land in Execution, I need not quote what he says (6) nor add any thing to shew the great Difficulty there is of getting Persons to prosecute upon the penal Laws, when the word *Informer* lies in the Way, even tho' it be to do themselves, as well as their Country Justice. Constables and other Officers might (one would think indeed) bring to the Knowledge of the Justices, without that invidious Reproach, the Offences of their particular Districts, if they were to be summoned and *obliged* to deliver Presentments upon Oath once in a Month at the private Sessions of the Division, where they would be cautious of returning an *Omnia Benè* if Things were not so.

But then as to the Penalties themselves, it is observed they are absolute and fixed; no Mitigation is allowed, and ten Pounds is the Punishment for the smallest Offence. Whether the Greatness of the Fine may not in some Cases stop the Hand of the Law I know not; but this has been said, that if it had been strictly executed, in some Parishes, and ten Pounds been adjudged on every Offence, the whole Estates of all the Inhabitants put together could not have paid the Penalties incurred in six Months. Perhaps the Convictions of two or three might have deterred the rest; how that might have been no body can say, but it is observed that generally Offenders build pretty much upon the Tenderness of Justices, who they imagine are obliged either to ruin or connive at them: Possibly if they were impowered to *mitigate* (7) the Penalties, so as only to make the

(6) Enquiry, &c. Page 103.

(7) As Offences are by some committed through Indiscretion and Negligence, and by others industriously and deliberately, one would think they ought not to be punished in the same Manner or equal Penalty. The famous Civilian, Baron *Puffendorf*, says, that "the true Measure of all *human Punishment* must be taken from the Utility of the Commonwealth; and according as the *Ends* of Punishment seem most easy to be attained, the Punishment may be either *enhanced* or *alleviated*, according to the Discretion of the Government; yet still  
so



the Offenders smart for the first Time, they might be less influenced by compassionate Considerations, and have an Opportunity of receiving Thanks for another kind of Lenity than that of totally passing by the Offence, in direct Breach of their Duty. Several Magistrates who were well-inclined to put the Laws in Execution, and did actually begin to do it, were nevertheless so much aware of the Severity of them in their utmost Extent, that they found out a Method of convicting an Offender upon one Offence only, when perhaps the Evidence as clearly proved ten separate Offences as that one (8); I may say of this, as that very learned Gentleman so often mentioned does upon another Case of Compassion (9), “ that it is a way of  
 “ acting however worthy the Motive, which is sometimes  
 “ more justifiable to a Man’s own Conscience, than it  
 “ would be in the *Court of King’s Bench*, which requires  
 “ the Magistrate to execute the Laws intrusted to his  
 “ Care, and in the manner those Laws prescribe (1).”

But there is another lighter Penalty (if it may be called a Penalty) appointed (2), where killing the Cattle is neg-

“ so as that the *Method of Punishment may admit of great Latitude.*” (Book VIII. Chap. 3. Sect. 24.) and elsewhere, that “ in executing  
 “ vindictive Justice there is an Indulgence made of *convenient Latitude*  
 “ not only on the Part of Clemency, but of *Severity* too,” (Book I. Chap. 2. Sect. 10.) as for the latter it is a Polity that seems not to be suited to the Genius of our Nation who are ever jealous of their Magistrates, and are too apt to look upon *having Power to be* cruel and oppressive, and *the being so*, to be much the same Thing. Nay indeed the Magistrates themselves are generally so far from desiring it, that they seem often without Affectation to lament the Necessity they are under of giving Sentence according to Law; and if one of the most merciful that ever sat upon any Bench did once wish for a Power of extending the Severity of the Laws, it was only in the extraordinary Case of those harden’d Wretches who durst even descend into the Regions of the Grave to perpetrate their most shocking and unnatural Villainy.

(8) By Stat. 19 Geo. II. c. 5. The Removal, Driving or Sale of every Ox, Bull, Cow, Calf, Steer or Heifer, contrary to any such Rule, Order or Regulation, shall be deemed a distinct and separate Offence.

(9) Enquiry, &c. Page 64.

(1) Subordinate Judges are not to make or *alter* Laws, but only to pass Sentence according to those already made. *Puffendorf’s Law of Nature*, B. VIII. Cap. 3. Sect. 17.

(2) Order of Council, 22 March, 1747.

lected by the Owners, which is that the Constables, Churchwardens, and Overseers of the Poor, and Inspectors shall go to the Place not only *to see* the infected Cattle killed according to Order, but even *to kill or cause them to be killed*. If this Power was intended to be made use of (as it is pity but it were) more minute Directions for examining and condemning the Cattle would perhaps have been convenient ; for as it now stands, an Officer seems to have a more absolute Power over his Neighbour's Property (as he may kill whatever he is disposed to think infected) than a Person who is inclined to put the Law in Execution would choose to have ; in all Cases the fewer *Severities* are left to the Discretion of the Officer the less invidious his Office is. The Power of *Mitigations* is of great Service in taking off the Odium that too often attends Magistracy, but a Power of being *severe* beyond the Intention of a Law, is so far from strengthening the Hands of the Magistrate who is to put it in Execution, that it often deters him from making use of those Powers that are necessary to give it a Spirit, and always raises an Opposition in the People to the Law itself. So great is the Abhorrence of the People of *England* to any thing that has but even the Look of *Arbitrary Power*.

As to the Power under our Consideration, there is indeed no great Danger of its being abused, even if there were not this fear of popular Odium ; for as Inspectors are seldom appointed, and the other Officers are generally owners of Cattle themselves, they will be neither very forward to go amongst infected Herds for fear of bringing the Distemper home to their own, neither will they be over-hasty in shooting their Neighbours Cows for fear of having the Compliment returned. Besides the terrible Name of *the Law* has been thundered into the Ears of some of them, and they have been told “ that by killing  
 “ the Cows of others they may subject themselves to  
 “ Actions, and perhaps be under Difficulties in justifying  
 “ themselves, by proving the Infection, and their Con-  
 “ formity to the Laws ; in which tho' they should be so  
 “ lucky as to succeed, and obtain a Verdict and *treble*  
 “ *Costs*



“ *Costs* from a Jury of their Countrymen, they may nevertheless find they have burnt their Fingers, and have but little Cause of Triumph; and that tho’ they indeed may be punishable for a neglect of their Duty which this seems to be a Part of, they would do better to run the Hazard of ten Pounds, (especially as they can’t be convicted unless somebody *informs*) than come under the Management of two *clever* Attornies (2).”

Thus tho’ all the Officers are strictly *enjoined* to see the Laws executed, to prosecute Offenders, and to present them at the Justices Meetings, none dare to do it for fear of Expence, ill Will, Revenge, or the Name of an *Informers*, or else out of Tendernefs and Compassion towards those that lie already under so heavy a Calamity as the Distemper of the Cattle is; a Compassion much like that of a silly Woman who would not permit a blistering Plaister to be laid upon her Child, when ordered by a Physician, for this irrefragable Reason, *because it suffered enough already*.

But if the Beasts are not to be *killed*, and neither the Reasonableness of the Thing itself, nor the Authority (3) of Antiquity, nor the Law of the Land, the Rewards for complying nor the Penalties for disobeying will bring Men to it; if in this thing Landlords, Tenants, Justices, Constables, and all Officers do stick out and bravely resolve not to be governed; yet surely there is no Cruelty in obey-

(2) This notable Speech the Author is indebted to a Person of no small Experience in the Law for, and heartily wishes he could paint the Force and Energy with which it was delivered as truly as he has done the Words. That the Reader may apprehend the Strength of the Reasoning, it may be proper to inform him, that tho’ the Act of Parliament gives *treble Costs* when there is a Verdict for the Defendant sued for any thing done in Execution thereof (22 Geo. II.) it may happen that his *single* Expences will over-run them, especially if he be in the Hands of a *proper Attorney*.

(3) But when thou see’st a single one remain  
In Shades aloof, or couch’d along the Plain,  
Or listlessly to crop the tender Grass,  
Or late to lag behind, with truant Pace;  
Revenge the Crime, and take the Traitor’s Head,  
Ere in the faultless Flock the dire Contagion spread.

DRYDEN’S Virgil. Georg. Book 3.

ing and enforcing the Rules concerning *buying, selling* and *driving* of Cattle; no Hardship in obliging People to buy *healthy* Cows, nor Unreasonableness in compelling them to keep the Distemper out of their Herds *as long as possible*; and yet these Parts of the Law, tho' regarded in some Places, are as much neglected in others as those that relate to killing. A partial Execution of any restraining Law is always attended with this bad Effect, that Rogues make their Markets, whilst honest Men suffer. It would not be difficult to cite many Cases of this in the present Question. A conscientious Cow-keeper that refuses a good Chapman because he has not had his Cow forty Days, may chance to see his less-scrupulous Neighbour pocket the Money he might have been glad to have taken; a Tanner who resolves to receive none but *certified Hides*, will find himself often underfold by him who scruples not to buy, at half Price, such as have been taken from distempered Carcases; when *public Fairs* and Markets are prohibited, it turns to the Advantage of the Jobber if he is suffered to keep a *private one* to himself; nay indeed and even amongst those Dealers the substantial and more orderly, out of fear of offending against the Law, or of being punished by it, yield up their Advantage to those who (as they say amongst themselves) drive the World before them, and are afraid of neither, as their Coin and their Consciences fully answer their Ends if they serve the present Occasion. The Author of the Observations thinks the only effectual Way of putting a Stop to the Distemper would be to withdraw the Præmiums in order to discourage an infected Trade; and indeed (tho' I am far from being of his Opinion) I cannot help thinking that the suffering this kind of Trade will greatly invalidate the good Effect of the Præmium. There is, no doubt, great Damage done by every one who suffers his Cow to languish and die of the Distemper, and thereby not only endangers his Neighbours Herds, but keeps the Infection on foot; but it is the *Driving* which spreads it from County to County, and from one End of the Kingdom to the other. A Person that has the Distemper in his Herds, and is an occupier of Lands as well as an

owner



owner of Cattle, if he will not be prevailed on to kill them, yet will not do any thing one would think to spread the Infection; but if there are Dealers and Drivers in the Nation whose *Interest* it is to keep the Distemper amongst us, they ought to be suspected, and their Trade restrained and kept within Bounds, especially if the spreading of this Calamity appears to be likewise a natural Consequence of the Trade; and that the Trade as it is now carried on is both pernicious to the Public in itself, and was also much discountenanced by the Law before the Distemper began. It perhaps may be difficult to persuade People of every Country, that the Persons who call themselves *Dealers*, and are now commonly called *Jobbers* but are better known in our Laws by the Name of *Forestallers*, are really such as are before described: But it is well if their unwillingness to see them in this Light, does not proceed in part from the very thing which proves the Continuance of this Distemper to be a Benefit to them, *viz. Jobbers will buy Cows when no body else will*; and it is because they run but little Hazard; for if the Beasts they buy hold up their Heads a few Days, nay sometimes a few Hours, it answers their Purpose; and therefore they will venture to buy, out of distempered Herds at low Prices, Cattle which they often drive without Certificates, or with no very authentic ones, or (which is not an unusual way) with such as were perhaps granted for healthy Beasts but which often serve for more Drovers than one; if a Cow or two fall on the Road the Loss of them is made up by the extravagant Gain upon those they get off their Hands; and besides this it is more than suspected that several Drovers have this last Year been *Factors* for the Owners of suspected Herds, and have taken Cattle off their Hands to pay for them *as they could afford*, which has brought no small Gain into their Pockets, and is a new Method of Trade opened unto them beyond the Extent of their Expectations, as they in this Way have a Chance of good Profit but risk no Loss at all. I have before hinted at the Trade of *recovered Cows*; this the Jobbers have got totally in their Hands; for as they have no Lands to occupy nor Business to take care of at

home, they are continually upon the *Look-out*, and as soon as a Cow is recovered, one or other of them is sure to have Intelligence of her, and if she is to be sold is as sure to forestal her. Here likewise is another Fund of Gain which must cease with the Distemper, as must that also before intimated of holding private Meetings where Markets and Fairs are prohibited: their Method of which is this; when all publick Meetings for the Sale of Cattle in any County are forbidden, a Brother Jobber takes the *Keeping*, as it is called, of a bit of Ground in some commodious Place in that County, which he obtains by giving for it about ten times as much as it is worth, and if it be but big enough for threescore or fourscore Cows to stand upon, in a few Weeks several Hundreds shall be removed there, for keeping as is pretended, but truly for *Sale*; of these Places the County is quickly apprised, and thither Buyers daily come with greediness to provide themselves, as they have not the Opportunity of *public* Markets, from which this differs in nothing except that it is called the Close or Ground of a private Person, that none but Jobbers are Sellers at it, and that it is a fraudulent and illegal Meeting tho' held in such a Manner as has hitherto eluded the salutary Intent of the Laws. And as from these Considerations (and many more might be produced) it is evident that the jobbing Trade naturally advantageth itself of the Distemper, so they make it no less clear that the Trade doth in its Turn naturally promote the Infection, since the driving of Cattle from infected and dangerous Herds through the Kingdom, the dealing in those that are newly recovered, and the holding of Markets for such as are brought from all Parts and in a contagious Neighbourhood must certainly be supposed to do so; and to these may be added the Carriage of the Infection by Under-Drovers who are seldom provided with much Change of Raiment, and are promiscuously employed in burying the Dead, driving the Living, and picking up Cattle in the Country for their Masters, and from what hath been observed of them are seldom over-careful upon any Occasion. But why should we reason about what is *likely to be*,  
when



when we all know what *has been*? Facts are beyond all other Arguments ; and I appeal to them in support of what hath been here advanced. Let it be enquired what Account can be given of the breaking out of the Distemper in any Country, and tho' perhaps it is not always clear how it was brought from one neighbouring Town to another, there seldom is any doubt of its being first spread there by the Jobbers, nay by *unlicensed* and (which is strange considering how many principal Noblemen and Gentlemen have suffered by them) *unpunished* Jobbers. But it will perhaps be here said, if this be the Case and it be so clear a Thing that the Jobbers do spread the Distemper, surely their Trade will not stand in need of any Restraint, it must fall of itself when Men see their Error in dealing with them. I might perhaps properly enough answer with the Story of *Lord Wharton's Puppies*, but I choose rather to suppose that they do see but (as was hinted above) cannot get out of the Error. It is indeed a very common Thing for one Jobber on this Account to lose his Credit in, or as the Phrase goes, to *sell a Country*, but he only makes room for another ; and it is not only amongst Grassiers and Farmers that changing of Hands is thought of some consequence. The Cow-trade is as it were monopolized by them, and, tho' an active and industrious Farmer may perhaps pick up here and there a Cow, very few (in comparison) can complete a Stock that is any ways considerable without them, or have an opportunity to bid Money for many that have not been already cheapened or (as it is called) *set up* by them ; and this is a Reason why many who plainly see the Evil are under a Necessity of dealing with them. It is common for Breeders to say and to think that by these means the Price of lean Cows is kept up to their Advantage, but this seems to be a Mistake, and as I am now to say a few Words to justify our calling it a pernicious Trade, I shall begin with giving an Answer to this Observation.

The Price of the lean Cattle or Cows in Calf, are indeed kept up but by no means to the Advantage of the Breeder or Seller any more than the Feeder or Buyer ;  
for,

for, as the Lord Bacon (4) observes, these sort of Dealers commonly *grind double*. It is the Interest of all Mankind that Provisions should be cheap, and of course that the Feeder or Dairy-man should buy their Stock as cheap as possible, but indeed it is more the Interest of the Breeder than of any one that it should pass from him to them with as little additional Expence as may be. The more Hands the Cows go through, the more their prices will be enhanced, but not a Jot the more will come to the first Seller; Nay indeed the *less*, for if the Grasier can afford to give but four Pounds for a Cow which the Jobber brings him, the first Seller must be thereby governed in his price to the Jobber who will get his Living out of one or both of them; And (by the way) an expensive Living it is, for tho' they have no Taxes or Parish Rates to pay, they are obliged to keep a Number of Under-Drovers, Horses, &c. and to lye at continual Expence (which the Breeders and Grasers pay for) at Inns and Alehouses, and to them indeed it must be owned they are considerable Benefactors, for there they generally spend most of their Gains and Profits.

It is alledged that without the help of these Men, the Breeders could not vend their Cattle at all; nor the Farms at a great Distance from the breeding Countries be stocked without them; but if it be meant of *illegal* Jobbers I must take the Liberty to deny it: Such as the Law hath always allowed will be fully sufficient for both Purposes, who were not to sell the Cattle in less than five Weeks within forty Miles of the Place where they were bought; Whereas now thousands of Cattle are bought and sold every Year within five Days and forty Furlongs, nay often as few Hours and Yards, and twice or three times over within the legal Time and Distance, to the

(4) From this Passage of my Lord Bacon, we may perceive the Etymology of the Word *Jobbing*, and that it is a corruption of *Chopping*; "As for Chopping of Bargains, (says he) when a Man buys *not to hold* but to *sell over again*, that commonly grindeth double both upon the Seller and upon the Buyer." Lord Bacon's Essays 1625, page 209.



great detriment of Breeders, whose Interest it is that as many Dairy-men and Graſiers ſhould come to Market themſelves as poſſible ; and of the Feeders whoſe Interest it is, that the public Markets ſhould not be forſtalled, nor the Cattle engroſſed ; and to the Eaſe and Advantage of none, except it be ſuch Gentlemen as having racked their Tenants 'till their Lands are flung upon their Hands, and being utterly unſkilled in theſe matters, are forced to employ Jobbers to ſtock them, who are thereby become much more important, and have acquired an Interest beyond Expectation, nay almoſt beyond Belief. If *Biſhop Latimer* had lived in theſe Days, well might he have ſaid as he did in one of his Sermons preached before King Edward the Sixth: “ If it pleaſe your Highneſs, I  
 “ hear ſay that in England we have Landlords (nay Step-  
 “ Lords I might ſay) that are become *Graſiers* ; and (as  
 “ he goes on) Burgeſſes are become Regrators, and ſome  
 “ Farmers will regrate and buy up all the Corn that  
 “ cometh to the Markets, and lay it up in ſtore, and ſell  
 “ it again at an higher price when they ſee their time:  
 “ I heard a Merchant-man ſay that he had travelled all  
 “ the Days of his Life in the Trade of Merchandiſe, and  
 “ had gotten three or four thouſand Pounds by buying  
 “ and ſelling ; but in caſe he might be liſenced or ſuffered  
 “ ſo to do, he would get a thouſand Pounds a Year, by  
 “ only buying and ſelling of Grain within this Realm, yea  
 “ and (as I hear ſay) Aldermen are now-a-days become  
 “ Colliers—They be both Woodmongers and Makers  
 “ of Coals ; I would wiſh he might eat nothing but  
 “ Coals for a while 'till he had amended it. There can-  
 “ not a poor Body buy a Sack of Coals but it muſt come  
 “ thro' their Hands.” (5)

I have quoted more from this Reverend and good old Prelate than may ſeem pertinent to the preſent Purpoſe ;  
 but

(5) Latimer's Sermons Quarto 1635, page 120. This Sermon was preached in Lent 1550, before the King and Council, and it is remarkable that on the third Day of the next Seſſion of Parliament a Bill was brought into the Houſe of Commons againſt Foreſtallers, viz. 25th of January 1551 ; but a new one was afterwards framed and paſſed that Houſe, February 6 following, which is the Act of the fifth  
 and

but as in the Eye of the Law and common Sense, Fore-stallers of Cattle as well as of Corn or of Coals are Offenders of the same Kind by enhancing the price of Provisions ; and as that was the Subject I was principally pursuing (for the Case of the Gentlemen Grasiers came in but by the by) I hope I may be excused for wandering back to my Subject with this venerable Father, and concluding it with another Quotation from the Statute-Books, which very emphatically describes the Mischief to the Public from Jobbers of all kinds. It is not very certain whether this Law was made in the Time of Henry III. Edward I. or Richard II. but probably not till after 31. Edward I. when there was made an Ordinance for *Measures*, to which there seems to be Reference from the fourth and eighth Chapters of the *Ordinance for Bakers, Brewers and other Victuallers, and for Ells, Bushels and FORESTALLERS* ; the tenth Chapter of which runs thus.

“ Especially be it commanded on the Behalf of our  
 “ Lord the King, that no Forestaller shall be suffered to  
 “ dwell in any Town, who manifestly is an Oppressor of  
 “ the

and sixth of Edward VI. against Forestallers, Regrators and Ingrossers. Another Act passed also this Session *for the true making of Woollen Cloth*, for the first Hint of which we seem to be indebted to this Prelate also: The Act mentions amongst other Tricks used by Clothiers, the over-stretching them upon the Tentors, and then stopping with Flocks such Bracks as shall be made by means thereof ; and other great and notable Faults *as almost cannot be thought to be true* ; The Bishop in another Sermon preached before the King having in his usual droll-way told his Audience that the Cloth-makers were become 'Pothecaries, goes on thus : “ If his Cloth be 17 Yards long, he will set him on a Rack  
 “ and stretch him out with *Ropes*, and rack him till the Sinews shrink  
 “ again while he has brought him to 18 Yards, when they have  
 “ brought him to perfection they have a pretty Feat to thicken him  
 “ again : He makes me a Powder call'd Flock-powder, they do so  
 “ incorporate it to the Cloth that *it is wonderful to consider.*” N. B. The Act directs that Broad-cloth shall be between 28 and 30 Yards in length wet, and afterwards that no Cloth shall be stretched above a Yard in length ; and that no Person shall use a *Rope*, &c. with the Tentor : There is so remarkable a Similitude of Expression in the Bishop's Sermon and this Statute, that I could not forbear taking notice of it in this place, tho' rather as a matter of Curiosity and Entertainment to the Reader, than of immediate Relation to the Subject of this Discourse.



“ the Poor, a publick Enemy of the Country,  
 “ who meeting Grain, Fish, Herring or OTHER  
 “ THINGS coming to be sold, doth make haste to  
 “ buy them before others, thirsting after wicked Gain,  
 “ oppressing the Poor, and deceiving the Rich, and by  
 “ that means goeth about to sell the said Things much  
 “ dearer than he which brought them ; who cometh  
 “ about Merchant-strangers and offereth them his help in  
 “ the Sale of their Wares, and informeth them that they  
 “ may sell their Wares dearer than they meant to have  
 “ done ; He that is convict thereof the first Time shall  
 “ be amerced and lose the Thing so bought, *according*  
 “ to the Custom of the Town ; He that is convict a  
 “ second Time shall have Judgment of the Pillory ; (6)  
 “ the third Time he shall be imprisoned and ransomed ;  
 “ the fourth Time he shall abjure the Town, and like-  
 “ wise they that give them Counsel, Help or Favour.

I shall now go on to consider how the Law stood with regard to Jobbers before the Distemper appeared, and that not only for the maintaining of what is before asserted, that their Trade, as now practised, was even then an illegal one, but also to obviate an Objection that may be made to any Reformation proposed on this head, *that it is hard to hinder a Man from getting his living in an honest* (which I suppose means *lawful*) way.

The first Statute I shall mention is in the Reign of *Edward VI.* (7) which enacts that none shall buy any Oxen, Steers, Ronts, Heifers, or Calves, but only in open Fair or Market, nor sell the same alive at the Market or Fair where bought, upon Pain of double the Value, except for the Household, Team, or Dairy.

No Butcher is allowed to buy any fat Cattle and sell the same alive, but may buy out of Fair or Market, so as they sell not the same alive.

(6) If this Punishment were now to be inflicted upon all Offenders, it would be found absolutely necessary to pay a due Regard to another part of the same Ordinance which directs that every Pillory or *Stretch-neck* should be made of convenient Strength, &c. Cap. 3.

(7) 3 and 4 Edw. 6.-cap. 19.

This Act was indeed a temporary one, but continued indefinitely by subsequent (8) Statutes.

In the Reign of the same (9) *Edward*, an excellent Statute was made which refers very probably, amongst other Laws, to the Ordinance above quoted, and it is called *an Act against Regrators, Forestallers and Ingrossers*.

This Act first distinguishes the several Offences of *Forestalling, Regrating and Ingrossing*; *Forestalling* (1) is adjudged to be the buying, or causing to be bought, any Merchandise, Victuals, or *any other thing whatsoever* coming by Land or by Water, toward any Market or Fair to be sold in the same, or making any Contract or Promise for the having or buying the same, or any Part thereof, or making any Motion by Word, Letter or otherwise, to any Person for the enhancing the Price, or dearer selling thereof; or dissuading, moving or stirring Persons coming to the Market, to abstain or forbear coming, &c.

The Statute afterwards enacts, That (2) if “ any Person or Persons shall buy any manner of Oxen, Ronts, Steers, Heifers, Calves, Sheep, Lambs, Goats, or Kids living, and sell the same again alive unless he or they do keep and feed the same, by the space of five Weeks in his or their own Houses, Ground, ferme Ground, or else in such Ground or Grounds where he or they have the Herbage or Common of Pasture by Grant or Prescription: That then every Person or Persons so buying and selling again shall lose the double Value of the Cattle or Things so bought and sold again, the Moiety of all which Forfeitures afore-rehearsed shall be to the King, and the other Moiety to him or them that will sue for the same in any of the King’s Courts of Record by Bill, Plaint or Action of Debt,” in the which Bill, &c. no Wager of Law, Effoin, or Protection is to be admitted.

(8) 3 Car. I. and 16 Car. I.

(9) 5 & 6 Edw. VI. c. 14.

(1) Ibid. Sect. 1.

(2) Ibid. Sect. 9.



The Justices (3) of Peace at their Quarter Sessions have Power to enquire of and determine all Offences committed contrary to this Act within the County where such Sessions is kept by Inquisition, Presentment, Bill or Information before them exhibited ; and by Examination of two lawful Witnesses, or by any of the same ways by the Discretion of the Justices ; and to make Process thereupon as tho' they were indicted thereof by Inquisition, or by Verdict of twelve Men or more, and to award Execution, &c.

Persons punished (4) by this Act are not to be sued or punished again.

Prosecutions are (5) to be within two Years next after the Offence is done or committed.

“ Provided (6) that it shall be lawful to all and every  
 “ Person or Persons known for a common Drover or  
 “ Drovers being licensed, authorised and allowed in Writing by three Justices of the Peace, whereof one to be  
 “ of the *Quorum*, of the County or Counties where the  
 “ same Drover or Drovers shall be most abiding and  
 “ dwelling, to buy Cattle *in such Shires or Counties where*  
 “ *Drovers have been wont in times past accustomably to buy*  
 “ *Cattle*, at their free Liberty and Pleasure, and to sell  
 “ the same as is aforesaid, at *reasonable Prices*, in common Fairs or Markets distant from the Place or Places  
 “ where he or they shall buy the same, *forty Miles at*  
 “ *the least*, so that the Cattle be not bought by way of  
 “ FORESTALLING.”

The last Words here quoted sufficiently shew that live Cattle are included in the general Words [*any other Thing whatsoever*] in the first Clause of this Act.

It appears likewise from this Act that Jobbers or Drovers were not allowed to buy Cattle (to sell over again) in the *feeding Countries*, for they are to buy only in such

(3) Ibid. Sect. 10.

(4) Ibid. Sect. 11.

(5) Ibid. Sect. 14.

(6) Ibid. Sect. 16.

Counties where Drovers have been wont in times past accustomedly to buy, &c. and tho' it does not appear by this Statute which they were, we may reasonably conclude they were the Counties excepted out of a Statute made in Queen *Elizabeth's* Reign which I shall mention, after having only observed that tho' part of the last-recited Act is repealed (7), as to buying of Sea Fish unsalted and some other things, it is as to the rest by a subsequent (8) Statute made *perpetual*.

The Statute of Queen (9) *Elizabeth* before-mentioned, recites that of *Edw. VI.* as to licensing Badgers, Drovers, &c. and says, “ that since the making of that Act such  
 “ a great number of Persons seeking to live easily and  
 “ to leave their honest Labour, have and do daily seek to  
 “ be allowed and licensed to the said Offices or Doings,  
 “ being most unfit and unmeet for those Purposes, and  
 “ also *very hurtful to the Commonwealth* of this Realm, as  
 “ well by inhancing the Prices of Corn and Grain and  
 “ other the said Victuals, as also by diminishing of the  
 “ Number of good and necessary Husbandmen, which  
 “ said Number of Drovers of Cattle and Badgers, La-  
 “ ders, &c. are many times without good Orders and  
 “ *due Consideration* assigned and allowed therein to the  
 “ *great Prejudice of the Commonwealth* (1).” It is therefore enacted that no Drover, Badger, &c. shall be licensed but at the general and open Quarter Sessions of the Peace of the said County where they dwell and have dwelled for the Space of three Years next before the Test of the said Licence, and such as have been married Men, and shall be at the time of such Licence to be granted Householders, and not household Servants or Retainers to any Person, and of the Age of thirty Years at least. The (2) Licence to bear Date of the Day and Place

(7) 5 Eliz. cap. 5.

(8) 13 Eliz. c. 25.

(9) 5. Eliz. c. 12. Sect. 3.

(1) Ibid. Sect. 4.

(2) Ibid. Sect. 5.



where such Sessions are holden, and to be signed and sealed with the proper Hand and Seals of three of the Justices present in open Sessions (*Quorum unus*) every Person taking a Licence contrary to this Ordinance to forfeit five Pounds; and all Licences granted otherwise to be void.

(3) The Justices may by their Discretion take Bond and Surety by Recognizance of such as shall be admitted a common Drover of Cattle, Badger, &c. that they shall not under Colour of the Licence *forestal* or *ingross*.

The Act then directs what Fees shall be paid for the Licences to the Clerk of the Peace, who is to keep a Register Book and therein to enter all the Names, Surnames, and dwelling Places of such as shall be so licensed, and to bring the Book to every Sessions that it may appear what number of Licences be, and shall be from time to time granted, whereby the *better Consideration* may be had thereof.

(4) This Act is not to extend to the Counties of *Westmorland*, *Cumberland*, *Lancaster* and *York*, or any of them, but that they may do as heretofore they have **LAWFULLY** used to do.

This Statute is confirmed expressly in the 13 Queen *Eliz.* (5).

And it is observable, that as to Drovers it was made to redress the Evil of them in the feeding Countries, but gives no new Liberty to them. They are not therefore authorised to buy up Cattle in those Counties any more than they were by the former Stat. of *Edw. VI.* and tho' they may go down into the usual Countries to buy and bring up Cattle, they are, by this Statute, to be restrained, as to their Number, even in this thing, and tho' that be left to the Justices in Sessions, to whom due Consideration is recommended, yet the Qualifications which do in effect limit their Number are absolute and fixed.

(3) Ibid. Sect. 6.

(4) Ibid. Sect. 10.

(5) 13 Eliz. c. 25. Sect. 4. and 5.

And here it appears that the Observation in the beginning of this Treatise, that some Measures may be highly proper to be pursued in some, which in other Countries are not so absolutely necessary, is not without Foundation, as it plainly was the Sense of the Legislature at the time of making this Act; for the principal breeding Countries are left still to the Act of *Edw. VI.* without the Clog of Qualification or any Restraint as to the Number; yet nevertheless even there they are not allowed to *forestal*, nor to be Drovers of Cattle *without Licence*.

(6) Another Statute made in the same Reign (to give further Discountenance to the Forestallers) directs (7) that in Informations, &c. upon penal Statutes the Offence must be laid to be done in the County where the Contract or other Matter alledged to be the Offence was in truth done, but allows (8) that for *any Offence comprised in any Statute made or to be made against FORESTALLERS* where the Penalty or Forfeiture shall appear to be to the Value of twenty Pounds or above, the Offence may be laid in any County at the Pleasure of the Informer.

From these Statutes it sufficiently appears how illegal the Trade of Jobbing (*as now practised*) was before any Law relating to the Distemper of the Cattle took place. It has indeed been said that all these Laws expired in the 5th of Queen *Anne*, and the Error proceeds from this:

(9) In the Reign of King *Charles II.* many more Restrictions were laid upon, and Regulations made for Drovers of Cattle (who I think are here first called *Jobbers*) and this Act, which was intended for an Amendment of the former Laws, was continued from time to time 'till the 5th of *Q. Anne*, and then was suffered to (1) expire so far as relates to the *Jobbers*; but no former Law was re-

(6) 31 Eliz. c. 5.

(7) Sect. 2.

(8) Sect. 4. N. B. This Act was made against common Informers, to whose Mercy nevertheless it was not thought improper to leave those greater Nuisances the Forestallers.

(9) 22 & 23 Car. II. cap. 19.

(1) 5 Ann. c. 2.



pealed by this Act of King *Charles* ; nor is the Statute of *Edw. VI.* so much as mentioned in it, which surely continued in Force, as it is the Law by which Forefallers, Regrators, and Ingrossers are at this Day distinguished.

As to Dealers in Cattle that are duly licensed, that do not buy them by forestalling, that drive them forty Miles before they sell them, that do not buy up Cattle to chop but in the breeding Countries, and that sell them at reasonable Prices in public Fairs and Markets, (if any such Dealers there are) what has been said under the foregoing Heads does in no sort relate to them. They have been always under the Countenance of the Law, and in times of Health would I believe be unexceptionable Traders ; but as the Distemper hath made Regulations in every thing relating to the Subjects of it absolutely necessary, it will be proper to observe what has been done in this Case by the Laws specially provided on that Occasion.

The Statute of (2) the twenty-third of his present Majesty having ordered that no Persons shall sell Cattle which they have not had forty Days, except such as are licensed as is therein after directed, further enacts for the more effectual preventing the spreading of the infectious Distemper by Persons commonly called Jobbers, who, occupying little or no grazing Land, buy up Cattle in infected Places, and soon after dispose of the same, that none (except Butchers buying fat Cattle for immediate Slaughter) shall purchase any Ox, Bull, Cow, &c. without a Certificate that he really occupies Land sufficient to graze and keep the number of Beasts contained in such Certificate (over and above his present Stock) for three Months.

But then it is provided and (3) enacted, that it shall and may be lawful for the Justices of the Peace or the major Part of them, at their respective General Quarter Sessions of the Peace, by Writing under the Hands and Seals of four or more of them, to license *any Persons* residing within their respective Counties to buy and sell Cattle ; and the Persons

(2) 23 Geo. II. c. 23.

(3) Ibid.

so licensed may *lawfully* buy Cattle at any other Fair, Market, or Place where the buying and selling of Cattle is not prohibited; and drive, sell, and dispose of them at any *other* Fair, Market, or Place though he shall not have obtained the Certificates herein before directed, any thing in *the present Act* to the contrary notwithstanding.

(4) Provided that no Licence shall be granted by the said Justices to any Person unless such Person shall enter into Recognizance of one hundred Pounds, with two sufficient Sureties to obey the Acts relating to the Distemper and the Rules and Orders made by his Majesty in Council relating thereto.

It is alledged by some that the Laws before quoted are not in the least altered by this; that the Licence directed by *them* is for buying Cattle and selling them alive within five Weeks at the distance of forty Miles, and is a Provision against Forestalling and Ingrossing, (which is to be mentioned in their Recognizance.) That the Licence directed by *this* Act is for buying and selling Cattle without a Certificate of having grazing Land, and is a Provision against Jobbers (qualified under the former Statutes) spreading the Distemper, and therefore the Condition of the Recognizance is not that they shall not forestal and ingross (which is supposed to be already provided for) but that they shall observe and obey the Acts relating to the Distemper amongst the Cattle, and the Rules, Orders and Regulations made by his Majesty in Council in Relation thereto, and that being thus licensed they may **LAWFULLY** buy and sell any thing in **THIS PRESENT** Act to the contrary thereof notwithstanding; whilst others insist that all the before-quoted Laws are by this superseded, and that the Justices may license Jobbers in all Counties without any Consideration of Number, Qualification or Fitness (except that the Persons are to live in the County and to enter into Recognizance) who being thus licensed, may buy where they will, and sell where they will, without driving forty Miles, or any other Limi-



tation, any thing in ALL the Acts of Parliament that ever were made to the contrary thereof notwithstanding. I do not pretend to determine which is the most natural Interpretation, but I cannot imagine the Legislature meant, that a Person thus licensed might LAWFULLY meet and buy Cattle on the Road going to Market, and if it happened to be but a Foot from it, to sell them therein in half an Hour's time; and instead of *restraining* the Jobbers upon the Account of their *often buying up Cattle in infected Places, and soon after disposing of them again*, to give them new Privileges which the Grasiers may well envy. And indeed the Grasiers in this Case, (which is yet by no means admitted to be the Case) must often be tied up for want of a Certificate, or by reason of its being just expired, and have the Mortification to see the licensed Jobber (who will be at all Times and Places at liberty) buy up Cattle in their nearest Neighbourhood, and which perhaps they will be obliged (as soon as they have procured Certificates) to buy at second hand and at an exorbitant Price; for which Reason, and because a Licence to buy and sell Cattle will dispense with the Proof of forty Days Possession when they *sell* their Cattle, and save them the trouble of applying for monthly Certificates when they want to buy, and in all things put them nearer upon the level in the Markets with these Dealers, it will be no wonder if the Grasiers and all other Occupiers of Land should (if the Laws were duly executed) apply for Licences, to the great emolument of the Clerks of the Peace; which surely the Justices would not refuse merely because they are Occupiers of Land; and when the Jobbers are become Fore-stallers, and the Grasiers Jobbers, the Gentlemen in a very little time may one and all become Grasiers and Dairymen.

It must be acknowledged however that the Mischief, that hath been done in spreading the Distemper since this Act hath taken place, was not done by Jobbers licensed under it; but by those that are unlicensed in every Sense, and who are so secure in their natural Rights of being R——s, they seek for no Protection from any Law whatsoever, but openly defy both IT and the Law-makers,

and laugh at the Magistrates that *talk* (which is as far as most Magistrates go) of putting it in Execution.

Surely this is intolerable and ought to spirit up the Magistrates to *do something*; and (with great Submission) even the Legislature to interfere. And perhaps if some further Restraints were laid upon even the legal Drovers, during the time of Infection, no *great* Damage would (tho' perhaps *some* might) accrue to Particulars, but much good to the Community would in all probability follow; particularly it has been wished (but that must be submitted to the only proper Judges) that 'till the Distemper ceases no Drovers or Jobbers should be allowed to buy Cattle within their own District, nor to sell them out of it; and that one Qualification for a Licence should be an occupancy of Land with Cattle to a proper Value in that District; which would be a kind of counter Balance to the Interest a Jobber may be supposed to have in the continuance of the Distemper, as he could not then sell an infected Cow but he must thereby hazard his own.

After all it must be confessed, and from what has been said, and from much more that might be added, and which every Person that has read the Laws relating to this Distemper cannot but know, it is very plain, that the great Defect is in the *Execution* of them. If some Alterations might be made for the better in the Laws themselves, yet it would be well if every one would set himself to conform to those that are already in force, 'till the Wisdom of the Legislature shall think proper to ordain others. It may not perhaps be amiss for any Person to intimate in a decent manner what Alterations in his Opinion might do good, but it is vastly unreasonable for the People to resolve not to be governed at all unless they are governed their own way; they reverse the Rule they ought to go by and consider their own Counsel as Law, and the Law as mere (5) Counsel and Advice. It is likewise extremely unreason-

(5) " Law is the Injunction of him who has a Power over those to whom he prescribes; but Counsel, of him, who has no such Power. " To do the things enjoined by Law, is matter of Duty; to do the thing



unreasonable for Individuals to expect that Laws should be framed for their particular Benefit. It was said by CATO, *That there is no Law advantageous to All; it is sufficient that it is beneficial for the most part and in (6) general*; and indeed it is impossible in the present Calamity but that Hardships must happen, to which for the good of the Community we ought nevertheless to submit.

And as to Magistrates to whom the Execution of these Laws is committed in the most emphatical (7) Manner, I would remind them (in the Words of the learned Gentleman above-mentioned) “ (8) That there is no Reason why “ they should not exert their Duty as far as they are “ able, because they cannot extend it as far as they desire.” And I may add further, that (9) “ to execute “ it with Vigilance they are obliged by the Duty they “ owe to God and their Country.” Nay to themselves and their Families.

At least let not their (1) *Place* aggravate the Crime of evil Example to their Inferiors. If they will not execute the Laws let them at least obey them, and *lead*, if they cannot *any other way* force the People into Obedience. “ The “ Force of *Rules* (says an (2) excellent Prelate) cannot be “ apprehended without Thoughts and Meditation; but “ good

“ things enjoyn'd by Counsel is matter of free Pleasure. The end of “ Counsel is directed towards him that receives it: And this End he is “ at liberty to weigh and approve. But tho' *Law* too has commonly “ some End directed toward those who receive it, yet it does not leave “ them the Right of examining and rejecting this End, but actually determines it by enjoining it. Counsel is only given to those who are “ willing to have it, but *Law* reaches the Unwilling. Lastly, the “ Right of a Counsellor ceases at the Pleasure of him who receives the “ Counsel; but the Right of a Lawgiver cannot be taken away at the “ Pleasure of those on whom he imposes the Law.” *Puffendorf's Law of Nature*, Book I. Chap. 6. Sect. 1.

(6) Liv. lib. 34. c. 3.

(7) Order of Council, 12th Jan. 1749.

(8) Fielding's Charge, &c. Page 55.

(9) Ibid. Page 64.

(1) Omne animi vitium tanto conspectius in se  
Crimen habet, quanto major qui peccat habetur. JUVENAL.

(2) Dr. John More, Bishop of Ely.

“ good *Examples* do as it were embody Virtue and make  
 “ it visible to the Eyes.

“ The higher the Station is wherein they are placed  
 “ who set good Examples, so much the farther the Ex-  
 “ ample is seen, and the stronger Influence it hath upon  
 “ others : *The Examples of Persons in Authority put on the*  
 “ *Nature of Laws, and do not persuade, but force and*  
 “ *oblige* Men to be (3) Just.

(3) Sermons, Vol. II. Page 19.

F I N I S.

